



Board of Public Works & Safety and Stormwater Board

Regular Meeting Agenda

2:00 p.m., August 7, 2023

Goshen Police & Court Building, 111 East Jefferson Street, Goshen, Indiana

To access online streaming of the meeting, go to <https://goshenindiana.org/calendar>

Call to Order by Mayor Gina Leichty

Approval of Minutes: July 31, 2023

Approval of Agenda

- 1) Fire Department request:** Approve the resignation of Sergeant Michael Masbaum, effective Aug.19, 2023.
- 2) Fire Department request:** Approve the promotion of Kyle R. Stamm to the rank of Sergeant for the Goshen Fire Department, effective Aug.19, 2023
- 3) Fire Department request:** Approve the promotion of Bryant Lehman to the rank of Sergeant for the Goshen Fire Department, effective Aug.20, 2023
- 4) Fire/Legal Departments request:** Approve conditional offer of employment to Colin D Loe as a probationary firefighter
- 5) Community Foundation of Elkhart County request:** Reservation of 10 parking spots in the 200 block of South Main Street for the evening of Aug. 22, 2023 for elderly and mobility-challenged people attending "An Evening with Friends" at the Goshen Theater
- 6) Shanklin Millrace Neighborhood Association request:** Approve closure of South 2nd Street, between West Monroe Street and West Purl Street, on Aug. 26 for an ice cream social
- 7) Planning & Zoning Department request:** Approve and authorize Mayor Leichty to sign the amended Homeownership Assistance Agreement for the Community Development Block Grant with Lacasa for Program Year 2022
- 8) Legal Department request:** Approve Resolution 2023-23, *Authorizing the Transfer of Regent Street Real Estate*, and authorize the Mayor to execute the warranty deed transferring the subject real estate to the Goshen Redevelopment Commission



9) Legal Department request: Adopt Resolution 2023-24, *Acquisition of Real Estate at 1723 Reliance Road*, and authorize the Mayor to execute the Agreement

10) Legal Department request: Approve and execute the agreement with OJS Building Services, Inc., for the replacement of a spacepak unit located in the Annex Building in the Engineering Department at a cost of \$6,600

11) Legal Department request: Approve and authorize the Mayor to execute the agreement with Community Fiber Network (CFN) for the rebuild and replacement of equipment with the SCADA Network System at a cost of \$24, 672.71 to perform all services

12) Engineering Department request: Approve the closure of the Lincoln Avenue bridge on Aug. 12 or Aug. 19 for Elkhart County to perform bridge maintenance

13) Engineering Department request: Approve the closure of College Avenue near Horn Ditch Bridge, from Aug. 14 until Oct. 16, 2023

14) Engineering Department request: Authorize Mayor Leichty to sign an agreement with Roberts Environmental for a time and material fee not to exceed \$4,000 to evaluate the lagoon's current condition and begin communication with IDEM

Privilege of the Floor

CITY OF GOSHEN STORMWATER BOARD

Regular Meeting Agenda

2:00 p.m., August 7, 2023

Goshen Police & Court Building, 111 East Jefferson Street, Goshen, Indiana

Members: Mayor Leichty, Mike Landis and Mary Nichols

15) Accept the post-construction stormwater management plan for North Meadow Third Apartments as it has been found to meet the requirements of City Ordinance 4329

Approval of Civil City and Utility Claims

Adjournment



BOARD OF PUBLIC WORKS & SAFETY & STORMWATER BOARD

MINUTES OF THE JULY 31, 2023 REGULAR MEETING

Convened at 2 p.m. in the Goshen Police & Court Building, 111 East Jefferson St., Goshen, Indiana

Present: Mayor Gina Leichty, Mike Landis, Mary Nichols, and Barb Swartley

Absent: none

CALL TO ORDER: Mayor Gina Leichty called the meeting to order at 2:00 p.m.

REVIEW/APPROVE MINUTES: Mayor Leichty presented the minutes of the July 24, 2023 Regular Meeting. Board Member Mike Landis moved to accept the July 24, 2023 minutes as presented and the motion was seconded by Board Member Mary Nichols. Motion passed 4-0.

REVIEW/APPROVE AGENDA: Mayor Leichty presented the meeting agenda with the addition of agenda item #11, *Engineering Department request: Designate Dustin Sailor as the federal Employee of Responsible Charge for five City projects.* Board member Landis moved to approve the agenda as amended. Board member Nichols seconded the motion. Motion passed 4-0.

1) Police Department request: Approve the resignation of Officer Jade E. Murphy, effective July 28, 2023
Goshen Police Chief José Miller asked the Board to approve the resignation of Officer Jade E. Murphy, #202, whose last day was July 27, 2023.

Chief Miller said that during the afternoon hours of July 27, he received a resignation letter from Officer Murphy. As a result of an injury and recent surgery to her wrist, Chief Miller said she has permanently lost most of the flexibility and range of motion in her wrist. Because of this loss, Officer Murphy said it was difficult to carry out her duties. In her letter of resignation to Chief Miller, which was included in the Board's agenda packet, Officer Murphy wrote, "I am incredibly grateful for the opportunities that I have been given in the last few years. I would also like to thank you in advance for being supportive of my decision."

Chief Miller added, "I would like to thank Officer Murphy for the time and dedication to our department and our community. Officer Murphy's kindness and compassion for the kids in the elementary schools will be missed. I wish her only the best in her future."

Mayor Leichty said she was sorry to learn about this.

Landis/Nichols moved to approve the resignation of Officer Jade E. Murphy from the Goshen Police Department, effective July 28, 2023. Motion passed 4-0.

2) Police/Legal departments request: Approve the conditional offer of employment to Nicholas R. Perry as a probationary patrol officer

On behalf of the Goshen Police Department, Shannon Marks, Legal Compliance Administrator for the City Legal Department, recommended that the Board extend a conditional offer of employment to Nicholas R. Perry, as well as approve the Conditional Offer of Employment Agreement and authorize the Mayor to execute the agreement on behalf of the City and the Board.



In a memorandum to the Board, **Marks** wrote that the agreement sets forth the conditions that Officer Perry must meet prior to beginning employment with the Police Department as a probationary patrol officer which includes being approved by the board of trustees of the Indiana Public Retirement System for membership to the 1977 Police Officers' and Firefighters' Pension and Disability Fund. Once employed, Officer Perry will be required to successfully complete all training requirements, including complete the Tier I basic training requirements and obtain certification with the Indiana Law Enforcement Training Board. The Police Department will request that the Board confirm the offer of employment when a position opening becomes available in the Police Department.

Landis/Nichols moved to extend a conditional offer of employment to Nicholas R. Perry as a probationary patrol officer, approve the Conditional Offer of Employment Agreement with Officer Perry and authorize the Mayor to execute the agreement. Motion passed 4-0.

3) Fire/Legal departments request: Approve the conditional offer of employment to John Z. Bacigal as a probationary firefighter

On behalf of the Goshen Fire Department, **Shannon Marks, Legal Compliance Administrator for the City Legal Department**, recommended that the Board extend a conditional offer of employment to **John Z. Bacigal**, as well as approve the Conditional Offer of Employment Agreement and authorize the Mayor to execute the agreement.

In a memorandum to the Board, **Marks** wrote that the agreement sets forth the conditions that Firefighter Bacigal must meet prior to beginning employment with the Fire Department as a probationary firefighter, which includes being approved by the board of trustees of the Indiana Public Retirement System for membership to the 1977 Police Officers' and Firefighters' Pension and Disability Fund.

Marks also wrote that once employed, Firefighter Bacigal will be required to successfully complete a Basic EMT training program and obtain Basic EMT certification. He will then be required to successfully complete a paramedic training program and obtain an Indiana paramedic license, and serve as an active paramedic with the Department a minimum of three years. The Fire Department will request that the Board confirm the offer of employment to Firefighter Bacigal when a position opening becomes available in the Fire Department.

Landis/Nichols moved to extend a conditional offer of employment to John Z. Bacigal as a probationary firefighter, approve the Conditional Offer of Employment Agreement with Bacigal, and authorize the Mayor to execute the agreement. Motion passed 4-0.

4) Blue Knights IN VIII Law Enforcement Motorcycle Club request: Street closures and related requests for the 25th annual Riding to Remember Fallen Police, Firefighter and Veteran charity motorcycle ride on Sunday, Sept. 10, 2023

Goshen Police Officer James Ballard, president of the Blue Knights IN VIII Law Enforcement Motorcycle Club, asked that the Board to approve the 25th Annual Riding to Remember Fallen Police, Firefighter, and Veteran charity motorcycle ride, which will be held Sunday, Sept. 10, 2023. He said the club raises money from this event for public safety and firefighter children's charities throughout Elkhart County.

Attached to Officer Ballard's written request was the route of the motorcycle ride and estimated time of arrival into Goshen, where a short memorial service will be held.

In a written request, **Officer Ballard** wrote that he would be asking **Mayor Gina Leichty** to speak along with other dignitaries during the memorial. He said a representative of Riding to Remember (Adam Johnson/Jeff Shrock) would be reaching out to the Mayor's office in the coming weeks regarding details of the memorial.



Officer Ballard requested the following street closures for the Memorial service:

- 5th Street from Lincoln Ave South to Madison Street
- Overflow closure: 5th Street South of Madison Street to Monroe Street
- Jefferson Street from Main Street to 6th Street

Officer Ballard also requested coordination between the Police and Fire Departments as well as Ballard to provide traffic control along the route at the intersections listed in the attached documentation.

Board member Landis asked if the route would be the same as in past years. **Officer Ballard** said it would be.

Board member Landis asked if there were any issues caused by the event that the Board would like to discuss.

Goshen Police Chief José Miller said there were not.

Landis/Nichols moved to approve the requested street closures and coordination for the 25th Annual Riding to Remember Fallen Police, Firefighter, and Veteran charity motorcycle ride that will be held Sunday, Sept. 10, 2023. The motion passed 4-0.

5) Environmental Resilience Department request: Approval to block off two rows of parking in the lot south of City Hall on Friday, August 4, for the annual EV Auto Display and Demonstration

Aaron Sawatsky Kingsley, Director of the City Department of Environmental Resilience, asked that the Board to close and reserve portions of City Hall Parking Lot D, South 5th Street, for several hours prior and during the annual EV Auto Display and Demonstration on Friday, Aug. 4, 2023. He asked that spaces be blocked by the City with traffic cones or temporary barriers the evening before the event as well as 2 p.m. to 8 p.m. on Aug. 4.

Kingsley said Environmental Resilience was suggesting blocking off two rows of parking. This will displace several police cars, but this has been accommodated in the past. This will allow the front side of the event to be toward City Hall and up against the charging stations that will be needed for out-of-town EV guests.

The event, which is being sponsored by the Michiana Area Council of Governments (MACOG) and the City Department of Environmental Resilience, is part of National Drive Electric Week and is intended to educate the public about the benefits of electric vehicles and provide an opportunity for people to talk to local electric vehicle drivers, experience a variety of plug-in hybrid and all-electric vehicles.

The event will also be staffed by Drive Clean Indiana, a Department of Energy Clean Cities program whose goal is to reduce dependence on petroleum in the transportation sector. The other event sponsors will listed on the flyer as national sponsors for the National Drive Electric Week (Plug In America, Electric Vehicle Association, Sierra Club, EV Hybridnoire).

Board member Landis asked if the work on the adjacent church was completed. **Kingsley** said he wasn't sure. He also clarified the parking spaces to be closed and the hours of the closure. He also told Board member Landis that mostly City employees would be displaced by the closure of parking spaces.

Landis/Nichols moved to close the requested parking spaces in City Hall Parking Lot D, on South 5th Street, the evening prior to and during the annual EV Auto Display and Demonstration on Friday, Aug. 4, 2023. The motion passed 4-0.

6) Dyksen & Sons Builders request: Approve the partial closure of Clinton Street and parking spaces on Aug. 4, 2023 for work at the Spohn Building, 109 East Clinton St.



Bruce Dyksen, president and owner of Dyksen & Sons Builders of Goshen, asked for the closure of a portion of East Clinton Street on Aug 4, 2023, so his company can install a new awning over the entrance to the Spohn Building, 109 East Clinton St.

In a letter to the Board, **Dyksen** wrote that the awning weighs about 1,000 pounds, so a small crane is needed to lift it up. He indicated that his company plans to complete the prep work before Aug. 4 and will only use the crane for a short period. The crane will be set up at 7 a.m. and work will be completed by 8:30 a.m. He also wrote that his company will only need to close a few parking spaces and the north side of Clinton Street.

In response to a question from **Mayor Leichty**, **Dyksen** said there were no weddings happening at this time.

In response to questions from **Board member Landis**, **Dyksen** clarified the extent and duration of the sidewalk and street closures. **Board member Landis** advised indicating the closure site for motorists.

Landis/Nichols moved to approve the partial closure of the parking spaces and the north side of Clinton Street on Aug. 4, 2023, from 7 a.m. to 8:30 a.m., for the installation of a new awning at the Spohn Building. Motion passed 4-0.

7) Legal Department request: Pass and adopt Resolution 2023-22 Authorizing the special purchase of a 2021 Tri Axle dump truck from Truck Centers Inc. at a cost of \$256,800

Brandy Toms, a paralegal with the City Legal Department, said attached for the Board's agenda packet for approval was Resolution 2023-22, *Authorizing the Special Purchase of a 2021 Tri-Axle Dump Truck*. She said the City Wastewater and Water-Sewer Departments are in need of a tri-axle dump truck.

Toms said **City Fleet Manager Carl Gaines** located a 2021 Western Star Tri-Axle dump truck from Truck Centers, Inc. with low miles that the City can purchase at a cost of \$256,800 and is available immediately. A new model of this type would cost in excess of \$300,000 and would not be available for delivery for 24-36 months.

Toms said Indiana Code 5-22-10-5 allows the City to make a special purchase when an opportunity to make that purchase can be done so at a substantial savings to the City. Therefore, she recommended that the Board of Public Works and Safety pass and adopt Resolution 2023-22 and authorize Mayor Leichty to execute the same.

Landis/Nichols moved to pass and adopt Resolution 2023-22, Authorizing the Special Purchase of a 2021 Tri-Axle Dump Truck from Truck Centers Inc. at a cost of \$256,800. Motion passed 4-0.

Note: Before the vote, **Clerk-Treasurer Aguirre** said this was the second time in recent months that **City Fleet Manager Carl Gaines** was able to secure a needed vehicle for the City at substantial savings. Aguirre said Gaines deserved some acknowledgement for doing such an excellent thing for the City.

Mayor Leichty thanked **Aguirre** for the comment and **Gaines** for his work.

8) Legal Department request: Approve and authorize Mayor to execute the subscription agreement with LexisNexis, a division of RELX, Inc. for the license to access and use Lexis+

Shannon Marks, Legal Compliance Administrator for the City Legal Department, said the City Legal Department recommends that the Board approve and authorize the Mayor to execute a subscription agreement with LexisNexis, a division of RELX, Inc. She said this multi-year agreement, through 2026, is a license for Legal Department employees to access Lexis+, which is an online legal research database.

Landis/Nichols moved to approve and authorize the Mayor to execute the subscription agreement with LexisNexis, a division of RELX, Inc. for the license to access and use Lexis+. Motion passed 4-0.



9) Engineering Department request: Approve and authorize the Mayor to sign Change Order No. 6, increasing the contract amount by \$131,810.09, for a revised contract amount of \$7,275,318.92 and 9 additional days

City Director of Public Works & Utilities Dustin Sailor discussed the rationale for Change Order No. 6 for the contract with Rieth-Riley for the Wilden Avenue Reconstruction project.

In his memo to the Board, **Sailor** wrote that the Phase 1 and Phase 2 water main layout was revised to improve constructability and future functionality, and because water main connections between pressure zones varied from the plans. Different storm pipe material and additional manhole coatings were also required, due to limited separation to the adjusted water main. This change order includes costs for construction and field layout related to these plan revisions, removal of a conflict storm structure, and a mailbox bank requested by the Post Office.

Sailor indicated the original contract amount, plus additions from Change Order No. 1 through Change Order No. 5, was \$7,143,508.83. He said Change Order No. 6 increases the contract price by \$131,810.09 (1.89% of the original contract amount) making the current contract amount \$7,275,318.92 and adds 9 days to the intermediate completion date for Phase 1 & Phase 2 to accommodate the additional work.

Summary of change orders:

Original contract amount	\$6,965,019.56
Change Order No. 1	\$ 1,221.51
Change Order No. 2	\$ 12,289.76
Change Order No. 4	\$ 134,090.00
Change Order No. 5	\$ 30,888.00
Change Order No. 6	\$ 131,810.09
Revised contract amount	\$7,275,318.92

Landis/Nichols moved to approve and authorize the Mayor to sign Change Order No. 6, increasing the contract amount by \$131,810.09, for a revised contract amount of \$7,275,318.92 and 9 additional days for the Wilden Avenue reconstruction. Motion passed 4-0.

10) Engineering Department request: Approve and authorize the mayor to sign Change Order No. 7, which replaces Change Order No. 5 and designates local-only funding for an amount of \$30,888

City Director of Public Works & Utilities Dustin Sailor discussed Change Order No. 7 for the contract with Rieth-Riley for the Wilden Avenue Reconstruction project.

Sailor indicated that this change order supersedes and replaces Change Order No. 5, which included costs related to the addition of water service taps to the project. According to the original project specifications, the City was responsible for making all water service taps to the new water main. The cost for these taps was originally submitted as a participating line item. However, as the project specifications required taps by the City of Goshen, the cost of adding taps to the project is non-participating. Change Order No. 7 does not change the contract price or duration, but only designates 100% local funding.

Sailor said the original contract amount plus additions from Change Order No. 1 through Change Order No. 6 is \$7,275,318.92. Change Order No. 7 replaces Change Order No. 5.

Summary of change orders:

Original contract amount	\$6,965,019.56
Change Order No. 1	\$ 1,221.51



Change Order No. 2	\$ 12,289.76
Change Order No. 4	\$ 134,090.00
Change Order No. 5	\$ 30,888.00
Change Order No. 6	\$ 131,810.09
Revised contract amount	\$7,275,318.92

Landis/Nichols moved to approve and authorize the Mayor to sign Change Order No. 7, which replaces Change Order No. 5 and designates local-only funding for an amount of \$30,888.00. Motion passed 4-0.

11) Engineering Department request: Designate Dustin Sailor as the federal Employee of Responsible Charge for five City projects

City Director of Public Works & Utilities Dustin Sailor told the Board that for the City of Goshen to receive federal funding for a project, an employee must be designated as the Employee of Responsible Charge (ERC). In order to be an ERC, INDOT requires the designated City representative to go through a certification process.

Sailor said at this time, the Engineering Department is requesting the Board of Public Works to designate Dustin Sailor, P.E. as the ERC for the following projects:

- Wilden Avenue Reconstruction, City project #2014-0035
- College Avenue Reconstruction, City project #2019-0022
- College Avenue Reconstruction Phase II, City project #2021-0017
- College Avenue Reconstruction Phase III, City project #2023-0025
- Blackport Drive Reconstruction, City project #2022-0016

Landis/Nichols moved to designate Dustin Sailor as the federal Employee of Responsible Charge for five City projects. Motion passed 4-0.

Privilege of the Floor (opportunity for public comment for matters not on the agenda):

Mayor Leichty opened Privilege of the Floor at 2:19 p.m. There were no comments.

Approval of Civil City and Utility Claims

As all matters before the Board of Public Works & Safety were concluded, Mayor Leichty/Board member Nichols moved to approve Civil City and Utility claims and adjourn the meeting. Motion passed 4-0.

Adjournment

Mayor Leichty adjourned the Board of Works meeting at 2:20 p.m.

EXHIBIT #1: Memorandum for the Board of Works, dated July 31, 2023, by Goshen Engineering in support of added agenda item #11, Engineering Department request: Designate Dustin Sailor as the federal Employee of Responsible Charge for five City projects



APPROVED:

Mayor Gina Leichty

Mike Landis, Member

Mary Nichols, Member

Barb Swartley, Member

ATTEST:

Richard R. Aguirre, City of Goshen Clerk-Treasurer



Danny C. Sink, Chief
FIRE DEPARTMENT, CITY OF GOSHEN

209 North Third Street • Goshen, IN 46526-3201

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August 01, 2023

To: Board of Works and Public safety

RE: Sergeant Michael Masbaum Resignation

From: Fire Chief Danny Sink

After serving the Goshen Fire Department and Goshen community since June 16, 2015.
Sergeant Michael Masbaum has submitted his resignation, effective August 19, 2023.

We have enjoyed working with Sergeant Masbaum during his time at GFD and appreciate his service to our community. Our GFD family would like to wish Michael and his family the very best in their new endeavors.



Danny C. Sink, Chief
FIRE DEPARTMENT, CITY OF GOSHEN

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August 2, 2023

To: Board of Works and Public Safety

RE: Promotion of Kyle R. Stamm to Fire Sergeant

From: Fire Chief Danny Sink

Kyle R. Stamm has passed all of the required tests and standards required for promotion at GFD.

It is my pleasure to request your **approval for the promotion of Kyle to the rank of Fire Sergeant for the Goshen Fire Department effective August 19, 2023.** Thank you



Danny C. Sink, Chief
FIRE DEPARTMENT, CITY OF GOSHEN

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August 3, 2023

To: Board of Works and Public Safety

RE: Promotion of Bryant Lehman to Fire Sergeant

From: Fire Chief Danny Sink

Bryant Lehman has passed all of the required tests and standards required for promotion at GFD.

It is my pleasure to request your approval for the promotion of Bryant to the rank of Fire Sergeant for the Goshen Fire Department effective August 20, 2023. Thank you



CITY OF GOSHEN LEGAL DEPARTMENT

City Annex
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www.goshenindiana.org

August 7, 2023

To: Goshen Board of Public Works and Safety
From: Shannon Marks, Legal Compliance Administrator
Subject: Goshen Fire Department Conditional Offer of Employment to Colin D. Loe

On behalf of the Fire Department, it is recommended that the Board extend a conditional offer of employment to Colin D. Loe, as well as approve the attached Conditional Offer of Employment Agreement and authorize the Mayor to execute the agreement.

The agreement sets forth the conditions that the prospective employee must meet prior to beginning employment with the Fire Department as a probationary firefighter which includes being approved by the board of trustees of the Indiana Public Retirement System for membership to the 1977 Police Officers' and Firefighters' Pension and Disability Fund. Colin currently possesses Firefighter I/II certification, and Basic EMT certification. Once employed, Colin will be required to successfully complete a paramedic training program, obtain an Indiana paramedic license, and serve as an active paramedic with the Department a minimum of three years.

The Fire Department will request the Board to confirm the offer of employment when a position opening becomes available in the Department.

Suggested motions:

- (1) Move to extend a conditional offer of employment to Colin D. Loe as a probationary firefighter.
- (2) Move to approve the Conditional Offer of Employment Agreement with Colin D. Loe, and authorize the Mayor to execute the agreement.

**GOSHEN FIRE DEPARTMENT
CONDITIONAL OFFER OF EMPLOYMENT AGREEMENT**

THIS AGREEMENT is entered into on _____, 2023, which is the date of the last signature set forth below, by and between **Colin D. Loe** ("Loe") and **City of Goshen, Indiana**, acting through the Goshen Board of Public Works and Safety ("City").

In consideration of the terms, conditions and mutual covenants contained in this agreement, City and Loe agree as follows:

CONDITIONAL OFFER OF AND PREREQUISITES TO BEGINNING EMPLOYMENT

City conditionally offers Loe employment as a probationary firefighter of the Goshen Fire Department. Loe accepts City's conditional offer of employment. City does not have a current position available in the Goshen Fire Department. City and Loe understand and agree that the offer of employment is contingent upon the following:

- (1) A personnel vacancy in the Goshen Fire Department rank and file must exist. Loe understands that currently no vacancy exists in the rank and file of the Fire Department. Although the Goshen Fire Department is initiating the pension physical and psychological testing, Loe understands that no permanent employment will be offered until such time that a personnel vacancy is available and/or additional staffing is hired to increase the number of firefighters.
- (2) Loe agrees to submit a complete application for membership to the Indiana Public Retirement System (InPRS) and the 1977 Police Officers' and Firefighters' Pension and Disability Fund (1977 Fund). Loe understands that the application for membership requires the completion of a comprehensive medical history and the administration and successful passage of the baseline statewide physical examination and baseline statewide mental examination.
- (3) City agrees to pay the initial cost for Loe to complete the baseline statewide physical examination and baseline statewide mental examination as required by Indiana Code §§ 36-8-8-7(a) and 36-8-8-19. In the event that InPRS requires any additional reports and/or testing to establish physical and mental fitness beyond the baseline statewide physical examination and baseline statewide mental examination requirements, such costs for the additional reports and/or testing shall be at Loe's expense. If additional reports and/or testing are required, Loe may elect to terminate this agreement.
- (4) InPRS will determine whether Loe has any Class 3 excludable conditions. Loe understands that if InPRS finds that Loe has any Class 3 excludable conditions, Loe will be prevented from receiving certain Class 3 impairment benefits for a certain period of time and will be disqualified from receiving disability benefits from the 1977 Fund throughout Loe's employment if the disability is related to the Class 3 excludable condition. In addition,

City will review the InPRS findings to determine whether the City's conditional offer of employment will be withdrawn.

- (5) City and Loe understand that the board of trustees of the InPRS must approve the application for membership to the 1977 Fund. City will confirm its offer of employment to Loe if the board of trustees of the InPRS approves the application for membership to the 1977 Fund. City's confirmation will occur when a position opening becomes available in the Goshen Fire Department. In the event that approval is not given by the board of trustees of the InPRS, City withdraws this conditional offer of employment, and Loe accepts City's withdrawal and this agreement shall be terminated.

**AGREE TO OBTAIN A PARAMEDIC LICENSE
AND SERVE AS A PARAMEDIC**

- (1) As a condition of employment with City and the Goshen Fire Department, Loe is required to successfully complete a paramedic training program, pass the license test, obtain an Indiana paramedic license, and serve as an active paramedic with the Goshen Fire Department a minimum of three (3) years.
- (2) Upon commencing employment, Loe agrees to enroll in a paramedic training program when instructed to do so by the Fire Chief, attend and successfully complete the training program, pass the license test, and obtain an Indiana paramedic license. If Loe is currently enrolled in and attending a paramedic training program prior to commencing employment, Loe agrees to continue to attend and successfully complete the training program, pass the license test, and obtain an Indiana paramedic license.
- (3) Starting on Loe's first day of employment, City will pay the cost of the paramedic training program. If Loe is currently enrolled in and attending a paramedic training program prior to commencing employment, City will pay a prorated cost of the training program based on the portion of the training program remaining after Loe's first day of employment with the Goshen Fire Department. While employed with the Goshen Fire Department, City will pay Loe for the time to attend class and required clinical sessions. Loe shall schedule all classes and clinical sessions when Loe is scheduled to work to the extent possible. City will pay the cost for the paramedic training program, or prorated portion thereof, and for Loe's time to attend the paramedic training classes and clinical sessions one (1) time. City will not pay for a refresher course or for Loe's time to attend a refresher course unless City does not pay for any of the paramedic training program cost or Loe's time to attend the paramedic training program.
- (4) Loe shall have twenty-four (24) months from the first day of the paramedic class to successfully complete the paramedic training program. Loe agrees to obtain an Indiana paramedic license within one (1) year after completion of the paramedic training program.
- (5) If Loe refuses to attend the paramedic training program, fails to successfully complete the paramedic training program within twenty-four (24) months from the first day of the

paramedic class, or fails to obtain an Indiana paramedic license within one (1) year after completion of the paramedic training program, Loe's employment with City and the Goshen Fire Department will be terminated for cause.

- (6) Except as provided by paragraph (10), if Loe leaves employment with City and the Goshen Fire Department before obtaining an Indiana paramedic license, including termination, Loe agrees to repay City the City's actual cost for Loe to attend the paramedic training program, including the cost of the training program and the time City paid another employee to cover Loe's shift due to Loe's attendance of the paramedic training classes and clinical sessions. In no event shall the reimbursement amount exceed the sum of Fifteen Thousand Dollars (\$15,000).
- (7) Upon receiving an Indiana paramedic license, Loe agrees to serve City and the Goshen Fire Department as an active paramedic in accordance with the requirements set forth in the contract between the City of Goshen and the Goshen Firefighters Association, Local No. 1443, as amended from time to time. Loe agrees to maintain Loe's paramedic license as long as Loe is required to serve City and the Goshen Fire Department as a paramedic.
- (8) Loe agrees to serve City and the Goshen Fire Department as an active paramedic for a minimum of three (3) full years. Except as provided by paragraph (10), if Loe fails to serve City and the Goshen Fire Department as an active paramedic for three (3) full years, including termination, Loe agrees to repay City a prorated portion of Fifteen Thousand Dollars (\$15,000) or City's actual cost for Loe to attend the paramedic training program, whichever is less. The reimbursement amount will be credited at the rate of Five Thousand Dollars (\$5,000) or one-third (1/3) of City's actual cost, whichever is less, for each full year Loe serves City and the Goshen Fire Department as an active paramedic. (Credit will not be given for partial years of service.) If City's actual cost for the paramedic training is less than Fifteen Thousand Dollars (\$15,000), then City and Loe agree to establish in writing City's actual cost for Loe to complete the paramedic training program, including the cost of the training program and the time City paid another employee to cover Loe's shift due to Loe's attendance of the paramedic training classes and clinical sessions.
- (9) Loe's repayment to City is due (30) days after withdrawing from service as an active paramedic or within thirty (30) days of Loe's last day of employment with City and the Goshen Fire Department. Interest will accrue on the unpaid balance of the repayment at the rate of eight percent (8%) per annum beginning thirty (30) days after withdrawing from service as an active paramedic or within thirty (30) days of Loe's last day of employment with City and the Goshen Fire Department.
- (10) No repayment will be due City if Loe fails to obtain an Indiana paramedic license and/or fails to serve as an active paramedic for three (3) full years because of disability or illness which make it impractical for Loe to obtain an Indiana paramedic license and/or to continue to serve as a paramedic in the foreseeable future, or due to death.

AMENDMENT

This agreement may be amended only by the mutual written consent of the parties and approval by the Goshen Board of Public Works and Safety.

SEVERABILITY

The provisions of this agreement are severable, and if any provision shall be held invalid or unenforceable, in whole or in part, then such invalidity or unenforceability shall affect only such provision, and shall not affect any other provision of this agreement.

INDIANA LAW

This agreement shall be governed by and construed in accordance with the laws of the State of Indiana. Proper venue to enforce the terms and conditions of this agreement shall be in Elkhart County, Indiana.

BINDING EFFECT

This agreement shall be binding upon and shall inure to the benefit of the parties and their respective successors and assigns.

ENTIRE AGREEMENT

This agreement constitutes the entire agreement between the parties, and supersedes all prior negotiations, agreements and understandings between the parties concerning, the subject matter hereof.

IN WITNESS WHEREOF, the parties have executed this agreement on the dates as set forth below.

City of Goshen, Indiana

Gina M. Leichty, Mayor

Colin D. Loe

Date: August , 2023

Date: _____



Carrie Berghoff
Chief Development Officer
Community Foundation of Elkhart County
240 East Jackson Blvd., Suite 104
Elkhart, Indiana 46516
Carrie@InspiringGood.org
(574) 295-8761
July 17, 2023

Board of Works
Goshen, Indiana 46526

Subject: Request for Reserved Parking Spots for "An Evening with Friends" Event at the Goshen Theater

Dear Board of Works,

On behalf of the Community Foundation of Elkhart County, I am writing to formally request the reservation of ten parking spots for the evening of August 22, 2023. We would like to reserve ten parking spots on the 200 block of South Main Street on August 22, from 6:00 pm to 9:00 pm. We will be hosting an exclusive event for Elkhart County's donors and grantmakers, "An Evening with Friends," at the Goshen Theater. Please see the included photos indicating the parking spots to which we are referring.

By reserving these spots, we can ensure that this generous audience, many of whom are elderly with mobility challenges, can conveniently access the Goshen Theater, eliminating the need for them to navigate long distances or face potential difficulties in finding suitable parking. We are excited to highlight the Goshen Theater and its renovations and celebrate, along with you, this vibrant venue in the City of Goshen.

Thank you for considering our request. Together, we can create an unforgettable experience for our donors and continue fostering a strong sense of community and generosity within Elkhart County.

Sincerely,

Carrie Berghoff
Chief Development Officer
Community Foundation of Elkhart County



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LAW



CG VISUALS
A DIGITAL CREATIVE AGENCY



SPRINGE



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Road Closure Request for Board of Works: Requested Tuesday, August 1, 2023

Submitted by: Melanie Helmuth, member of Shanklin Millrace Neighborhood Association

Contact: Melanie Helmuth, melaniehelmuth@goshencity.com

Location: South 2nd St. between W. Monroe Street and West Purl Street, parallel to River Race Drive. No driveways or homes will be affected by this closure

Date/Time: Saturday, August 26, event time 3pm to 5pm. Space reservation time 2pm to 6pm.

Description of Event: Shanklin Millrace Neighborhood Association Ice Cream Social - our first association event since COVID.

Other factors: We would like to request barricades for each end of the street.

Event Space - Outlined by yellow dots





Theresa Cummings, Community Development Specialist
PLANNING & ZONING DEPT., CITY OF GOSHEN
204 East Jefferson Street, Suite 4 • Goshen, IN 46528-3405

Phone (574) 533-9370 • Fax (574) 533-8626 • TDD (574) 534-3185
theresacummings@goshencity.com • www.goshenindiana.org

TO: Board of Public Works and Safety

FROM: Theresa Cummings, Community Development Specialist

DATE: August 7, 2023

RE: Amended Homeownership Assistance Agreement for CDBG

The Program Year 2022 Homeownership Assistance Agreement for the Community Development Block Grant has been amended and needs approval. The section being amended is as follows:

2. Scope of Services –

(e) Claims will be limited to the sum of **Forty Sixty** Thousand Dollars (~~\$40,000.00~~-\$60,000.00) for the homeownership assistance project. The maximum CDBG contribution per household/property shall generally not exceed **Ten Fifteen** Thousand Dollars (~~\$10,000.00~~ \$15,000.00). The Sub-Recipient will be reimbursed by the City after closing for the direct homeownership assistance funding only.

When the homeownership assistance program was first developed last year, we budgeted \$40,000 of assistance with the goal of helping four homebuyers. Since the launch of the program, the market has changed and interest rates have doubled, making it even more financially difficult for a low/moderate income qualified buyer to be able to afford a home. We are requesting to increase the budget from \$40,000 to \$60,000 in order to help offset the cost of higher interest rates and mortgage prices by offering up to \$15,000 of assistance per household if warranted. This change will not give Lacasa additional CDBG funds. We will transfer unallocated 2022 funds from the owner occupied rehab activity into the homeownership assistance program.

Attached is a copy of the amended agreement with the specified changes.

Suggested motion: To approve and authorize Mayor Leichty to sign the amended Homeownership Assistance Agreement with Lacasa for Program Year 2022.

Attachment

CITY OF GOSHEN
COMMUNITY DEVELOPMENT BLOCK GRANT
SUBRECIPIENT AMENDED AGREEMENT FOR HOMEOWNERSHIP ASSISTANCE
Program Year 2022: July 1, 2022-June 30, 2023

This Homeownership Assistance Agreement (the “Agreement”) is entered into by and between the City of Goshen, Indiana (the “City”) and LaCasa, Inc. (the “Sub-Recipient”), an Indiana not-for-profit corporation, as of this 7th day of August 2023.

WITNESSETH:

WHEREAS, such CDBG Homeownership Assistance grant will be funded through the entitlement city’s Community Development Block Grant (“CDBG”) program established under Title I of the Housing and Community Development Act of 1974, as amended, and the rules, regulations, policy memoranda and other authority thereunder (collectively, the “Act”) and administered by the City of Goshen.

WHEREAS, City has requested the assistance of the Sub-Recipient to jointly administer the Homeownership Assistance portion of the CDBG program with the City in order to carry out the proposed program;

WHEREAS, the Act contains certain requirements regarding the use of funds to fulfill a “national objective,” as defined in the Act;

WHEREAS, the national objective to be fulfilled by the City’s use of its CDBG program is the provision of single unit residential housing by the Sub-Recipient for low and moderate (“Low and Moderate”) income households. Low- and Moderate-income households are defined in the Act, and the income limits will be as established for the HOME Program, as published annually by Indiana Housing & Community Development Authority, with a separate Lien and Restrictive Covenant Agreement required to be executed and recorded for each individual property receiving CDBG assistance;

WHEREAS, the Act requires that the Sub-Recipient demonstrate its intent to provide such housing for Low- and Moderate-income families;

WHEREAS, the Act prohibits discrimination under any program or activity funded with CDBG moneys on the basis of race, color, national origin, sex, age, or handicap; additionally, the Act prohibits discrimination in housing programs and activities funded with CDBG on the basis of sexual orientation, gender identity or marital status;

NOW, THEREFORE, in consideration of the mutual promises contained herein, the City and Sub-Recipient agree as follows:

1. Sub-recipient Designation and Administration of Grant. City hereby designates and Sub-Recipient hereby agrees to serve as a sub-recipient for the Homeownership Assistance portion of the CDBG program and to administer such portion in accordance with this Agreement and the Act.

2. Scope of Services. Sub-Recipient agrees to perform the services under this Agreement as specified in the attached Exhibit A that are hereby incorporated by reference. In performing such services, Sub-Recipient agrees:

(a) To obtain all federal, state, and local government approvals, permits, licenses, and review required by law to be obtained for the performance of the homeownership assistance services under this Agreement.

(b) To comply with all applicable, federal, state, and local laws and regulations pertaining to the performance of the homeownership assistance services under this Agreement.

(c) To submit to the City any and all documents demonstrating compliance with all federal and state rules and regulations. Such demonstrations will be provided at the request of the City. City's failure to request any supporting documentation, however, shall not excuse any failure on the part of Sub-Recipient to have complied with the applicable federal and state rules and regulations.

(d) To file claims on a timely basis with the City for the release of funds from the grant for payment of the direct homeownership assistance costs as outlined in the HUD-1/Closing Disclosure. All claims will be accompanied by verification of all costs incurred. Copies of the following documents must be on file with the City in order to process a claim: homebuyer application, household income verification, HUD-1/Closing Disclosure with itemized claim invoice, and homeownership assistance report with all required attachments.

(e) Claims will be limited to the sum of Sixty Thousand Dollars (\$60,000.00) for the homeownership assistance project. The maximum CDBG contribution per household/property shall generally not exceed Fifteen Thousand Dollars (\$15,000.00). The Sub-Recipient will be reimbursed by the City after closing for the direct homeownership assistance funding only.

(f) That all contracts and services shall be carried out in compliance with applicable laws and regulations, including, but not limited to, those listed in Exhibit B.

(g) That all federal fair housing and other requirements stated in the CDBG program shall be met when performing the homeownership assistance services under this Agreement.

(h) That City and Federal officials and representatives will have access to all books, accounts, records, reports, files, and other papers, things or property pertaining to the project in order to make audits, examinations, excerpts, and transcripts.

(i) To assist any or all of the City's personnel or agencies, designated by the City by contract or resolution or other written document, regarding the implementation of this Agreement, and such designated personnel and agencies shall provide information and cooperation to the Sub-Recipient to the extent provided in this Agreement and other contracts, resolutions, or written agreements.

(j) To provide any and all information as requested by the City to fulfill the requirements of the Federal Subaward Reporting System (FSRS). This includes having a UEI (Unique Entity Identifier) and maintaining a current and accurate SAM.gov (System for Award Management) account.

3. Release of Funds. The City agrees to release funds from the CDBG program for direct homeownership assistance costs, to be reimbursed to the Sub-Recipient after closing, in accordance with City claim procedures as outlined in Exhibit C.

4. City Responsibilities. City agrees:

(a) To retain all environmental responsibilities and the responsibility for initiating any applicable inter-governmental review process. However, nothing in this Agreement shall be construed to create environmental responsibilities that do not otherwise exist.

(b) To file required paperwork and documents with the U.S. Department of Housing and Urban Development and any other necessary agencies on a timely basis with respect to the CDBG program and to pay properly submitted and documented claims of the Sub-Recipient on a timely basis.

5. Designation of Project Coordinators. For purposes of this Agreement, the Project Coordinator for the City shall be Rhonda Yoder, CDBG Director, City of Goshen. The Project Coordinator for the Sub-Recipient

shall be Jeremy Stutsman, President, LaCasa, Inc. Communications pertaining to this Agreement shall be through the respective Project Coordinators for the City and Sub-Recipient.

6. Term of Agreement.

(a) The term of this Agreement shall run from and including the 1st day of July 2022 through and including the 30th day of June 2023. All of Sub-Recipient's claims to release funds from the CDBG program shall be submitted to the City no later than the day specified by the CDBG Director near the end of the contract period, approximately June 8, 2023, so that all claims can be paid within the contract year, except as needed to complete projects, including the associated reporting and paperwork, generally extending the term of the contract no longer than the end of calendar year 2024. The final claim deadline and homeownership activity may be extended based on specific circumstances with a decision by the CDBG Administrator.

(b) When the CDBG Director is notified that CDBG funds are no longer available due to funding changes or lack of funding by the U.S. Department of Housing and Urban Development to support continuation of performance of the Agreement, the Agreement shall be canceled with not less than 30 days' notice to the Sub-Recipient from the City.

7. Audit Compliance. The Sub-recipient shall provide the amount of federal funds expended in the Sub-recipient's fiscal year, as requested by the City. If the Sub-recipient expends \$750,000 or more of federal funds in a fiscal year, an audit following 2 CFR 200.514 must be conducted and a copy of the audit submitted to the City for review, within 30 days after receipt of the auditor's report(s) or nine months after the end of the audit period, whichever is earlier. Any findings related to CDBG must be cleared by the City.

8. CDBG Assets. Upon the expiration or termination of this Agreement, all CDBG-funded assets shall revert to the City to be disposed of in accordance with applicable federal rules, laws, and regulations governing the disposition of property, assets, and equipment purchased with federal funds.

9. Program Income. Sub-Recipient agrees that any Program Income as defined by the Act generated pursuant to this Agreement in the administration of the CDBG program shall be administered and handled as required by the Act and may be expended only upon the prior approval of the City.

10. Uniform Administrative Requirements. Sub-Recipient agrees to comply with applicable uniform administrative requirements, as described in 2 CFR Part 200.

11. Notice. All notices required or permitted under this Agreement shall be submitted in writing to the other party to this Agreement, and delivered personally or sent by regular first-class mail:

City of Goshen, Indiana
Attn: Rhonda Yoder, CDBG
204 E. Jefferson Street, Suite 4
Goshen, Indiana 46528

LaCasa, Inc.
Attn: Amy Call
202 N. Cottage Avenue
Goshen, Indiana 46528

Or at such other place as the parties may designate in writing from time to time.

12. Conflict of Interest. The Sub-Recipient represents that none of its employees, officers, or directors presently have any interest, either direct or indirect, which would conflict in any manner with Sub-Recipient's performance or procurement under this Agreement, and that no person having such interest shall be appointed or employed by Sub-Recipient; except that which is disclosed in writing by the Sub-Recipient to the City.

13. Tax Exempt Status. Attached hereto as Exhibit D by this reference made a part hereof is a copy of correspondence from the Internal Revenue Service dated the 28th day of January 2003 confirming the 501(c)(3)

tax exempt status of the Sub-Recipient.

14. Default.

(a) Upon Sub-Recipient’s failure to comply with any of the terms and conditions contained within this Agreement or its failure to comply with the appropriate federal rules, laws, and regulations governing the administration of the CDBG funds, all rights inuring to the benefit of Sub-Recipient pursuant to this Agreement shall be suspended and this Agreement, shall be terminated upon delivery of written notice by the City. Furthermore, Sub-Recipient shall not be entitled to reimbursement from the City for any project in which Sub-Recipient is in default of its obligations imposed upon it pursuant to this Agreement, or is in violation of any federal rules, laws, or regulations governing the administration of CDBG funds. Upon City’s default under this Agreement, all rights inuring to the benefit of City pursuant to this Agreement shall be suspended and this Agreement shall be terminated upon delivery of written notice by Sub-Recipient.

(b) Upon default by a party to this Agreement, the non-defaulting party shall be entitled to recover its damages, penalties incurred, costs and expenses sustained, and reasonable attorney fees from the defaulting party in addition to the remedies provided in subparagraph (a) above. A party shall be in default under this Agreement in the event it violates or fails to comply with any of the terms and conditions contained within this Agreement or the applicable state and federal laws, rules, and regulations.

15. Binding Effect. This Agreement shall be binding upon and shall inure to the benefit of the parties hereto and their respective successors and assigns; provided, however that no assignment shall be effective to relieve a party of any liability under this Agreement unless the other party has consented in writing to the assignment and agreed to the release of such liability. The City and Sub-Recipient hereby acknowledge receipt of a duly executed copy of this Agreement complete with all exhibits attached hereto.

IN WITNESS WHEREOF, the Sub-Recipient and the City have caused this Agreement to be executed by a duly authorized individual as of the date first above written.

SUB-RECIPIENT:

LACASA, INC.

By: _____
Amy Call
Chief Financial Officer

ATTESTED:

By: _____

Printed: Theresa Cummings

Title: Community Development Specialist

CITY:

CITY OF GOSHEN, INDIANA BY
AND THROUGH THE MAYOR
OF THE CITY OF GOSHEN, INDIANA

By: _____
Gina Leichty, Mayor

Exhibit A
HOMEOWNERSHIP ASSISTANCE PROGRAM
CITY OF GOSHEN, INDIANA

SCOPE OF SERVICES

- a) To prepare and secure execution of agreements between LaCasa and the homebuyer household specifying the responsibilities of each party with regard to the project including the work to be performed and commitments made by LaCasa under this Agreement.
- b) To provide all required documents to the City, including homebuyer application, income verification, homeownership assistance report form, HUD-1/Closing Disclosure with itemized invoice, housing education/counseling verification, and recorded deed and recorded affordability liens after closing, including all supporting documentation for each.
- c) To maintain records adequate to identify and account for all costs pertaining to this Agreement; to establish the eligibility of the homebuyer household assisted under the program and such other records as may be required by statute, rule or regulations. These records shall be maintained for a period of four (4) years after project completion and shall be available to the City and authorized federal agencies. CDBG project completion occurs when the CDBG lien is released.
- d) Prepare homeownership assistance reports on the form provided by the City, detailing the property location, legal description of property, determination of household income, number of household members, the race and ethnicity of household members, and other required information.
- e) Provide proof of complying with all rules and regulations involving Lead Based Paint requirements.
- f) The maximum CDBG grant per household/property will typically be Ten Thousand (\$10,000.00). A Lien and Restrictive Covenant Agreement will be required to be executed and recorded for each individual property receiving CDBG assistance. All proceeds from lien repayment are considered program income and shall be returned to the City's CDBG program.

Exhibit B

I. Administrative Requirements

A. Financial Management

1. Accounting Standards

The Sub-recipient agrees to comply with 2 CFR Part 200 and agrees to adhere to the accounting principles and procedures required therein, utilize adequate internal controls, and maintain necessary source documentation for all costs incurred.

2. Cost Principles

The Sub-recipient shall administer its program in conformance with 2 CFR Part 200 as applicable. These principles shall be applied for all costs incurred whether charged on a direct or indirect basis.

B. Documentation and Record Keeping

1. Records to be Maintained

The Sub-recipient shall maintain all records required by the Federal regulations specified in 24 CFR 570.506 that are pertinent to the activities funded under this Agreement. Such records shall include but not be limited to:

- a. Records providing a full description of each activity undertaken;
- b. Records demonstrating that each activity undertaken meets the National Objective of the CDBG program of benefiting low/moderate income persons;
- c. Records required to determine the eligibility of activities;
- d. Records required to document the acquisition, improvement, use or disposition of real property acquired or improved with CDBG assistance;
- e. Records documenting compliance with the fair housing and equal opportunity components of the CDBG program;
- f. Financial records as required by 24 CFR 570.502, and 2 CFR Part 200; and
- g. Other records necessary to document compliance with Subpart K of 24 CFR 570.

2. Retention

The Sub-recipient shall retain all financial records, supporting documents, statistical records, and all other records pertinent to the Agreement for a period of four (4) years. The retention period begins on the date of submission of the City's annual performance and evaluation report to HUD in which the activities assisted under the Agreement are reported on for the final time. Notwithstanding the above, if there is litigation, claims, audits, negotiations or other actions that involve any of the records cited and that have started before the expiration of the four-year period, then such records must be retained until completion of the actions and resolution of all issues, or the expiration of the four-year period, whichever occurs later.

3. Client Data

The Sub-recipient shall maintain client data demonstrating client eligibility for services provided. Such data shall include, but not be limited to, client name, address, income level or other basis for determining eligibility, and description of service provided. Such information shall be made available to the City or their designees for review upon request.

4. Disclosure

The Sub-recipient understands that client information collected under this contract is private, and the use or disclosure of such information, when not directly connected with the administration of the City's or Sub-recipient's responsibilities with respect to services provided under this contract, is prohibited unless written consent is obtained from such person receiving service, and, in the case of a minor, that of a responsible parent/guardian, unless otherwise required by law.

5. Close-Outs

The Sub-recipient's obligation to the City shall not end until all close-out requirements are completed. Activities during this close-out period shall include, but are not limited to: making final payments, disposing of program assets (including the return of all unused materials, equipment, unspent cash advances, program income balances, and accounts receivable to the City), final close-out reports and determining the custodianship of records. Notwithstanding the foregoing, the terms of this Agreement shall remain in effect during any period that the Sub-recipient has control over CDBG funds, including program income.

6. Audits and Inspections

All Sub-recipient records with respect to any matters covered by this Agreement shall be made available to the City, grantor agency, their designees or the Federal Government, at any time during normal business hours, as often as the City or grantor agency deems necessary, to audit, examine, and make excerpts or transcripts of all relevant data. Any deficiencies noted in audit reports must be fully cleared by the Sub-recipient within 30 days after receipt by the Sub-recipient. Failure of the Sub-recipient to comply with the above audit requirements will constitute a violation of this contract and may result in the withholding of future payments. The Sub-recipient hereby agrees to have an annual agency audit conducted in accordance with current City policy concerning Sub-recipient audits and, as applicable, 2 CFR Part 200.

C. Reporting and Payment Procedures

1. Program Income

The Sub-recipient shall report on a monthly basis all program income as defined at 24 CFR 570.500(a) generated by activities carried out with CDBG funds made available under this contract. The use of program income by the Sub-recipient shall comply with the requirements set forth at 24 CFR 570.504. By way of further limitations, the Sub-recipient may use such income during the contract period for activities permitted under this contract and shall reduce requests for additional funds by the amount of any such program income balances on hand. All unused program income shall be returned to the City at the end of the contract period. Any interest earned on cash advances from the US Treasury and from funds held in a revolving fund account is not program income and shall be remitted promptly to the City.

2. Indirect Costs

If indirect costs are charged, the Sub-recipient will develop an indirect cost allocation plan for determining the appropriate Sub-recipient's share of administrative costs and shall submit such plan to the City for approval, in a form specified by the City.

3. Payment Procedures

The City will pay to the Sub-recipient funds available under this contract, based upon information submitted by the Sub-recipient and consistent with any approved budget and City policy concerning payments. With the exception of certain advances, payments will be made for eligible expenses actually incurred by the Sub-recipient, and not to exceed actual cash requirements. Payments will be adjusted by the City in accordance with advance fund and program income balances available in Sub-recipient accounts. In addition, the City reserves the right to liquidate funds available under this contract for costs incurred by the City on behalf of the Sub-recipient.

D. Procurement

1. Compliance

The Sub-recipient shall comply with current City policy concerning the purchase of equipment and shall maintain inventory records of all non-expendable personal property as defined by such policy as may be procured with funds provide herein. All program assets (unexpended program income, property, equipment, etc.) shall revert to the City upon termination of this Agreement.

2. OMB Standards

Unless specified otherwise within this Agreement, the Sub-recipient shall procure all materials, property, or services in accordance with the requirements of 2 CFR Part 200.

3. Travel

The Sub-recipient shall obtain written approval from the City for any travel outside the metropolitan area with funds provided under this Agreement.

II. Personnel and Participant Conditions

A. Civil Rights

1. Compliance

The Sub-recipient agrees to comply with all local and State of Indiana civil rights ordinances and with Title VI of the Civil Rights Act of 1964 as amended, Title VIII of the Civil Rights Act of 1968 as amended, Section 104(b) and Section 109 of Title I of the Housing and Community Development Act (HCDA) of 1974 as amended, Section 504 of the Rehabilitation Act of 1973, the Americans with Disabilities Act of 1990, the Age Discrimination Act of 1975, Executive Order 11063, and Executive Order 11246 as amended by Executive Orders 11375, 11478, 12107 and 12086.

2. Nondiscrimination

The Sub-recipient agrees to comply with the non-discrimination in employment and contracting opportunities laws, regulations, and executive orders referenced in 24 CFR 570.607, as revised by Executive Order 13279. The applicable non-discrimination provisions in Section 109 of the HCDA are still applicable.

3. Land Covenants

This contract is subject to the requirements of Title VI of the Civil Rights Act of 1964 (PL 88-352) and 24 CFR 570.601 and 570.602. In regard to the sale, lease, or other transfer of land acquired, cleared or improved with assistance provided under this contract, the Sub-recipient shall cause or require a covenant running with the land to be inserted in the deed or lease for such transfer, prohibiting discrimination as herein defined, in the sale, lease or rental, or in the use or occupancy of such land, or in any improvements erected or to be erected thereon, providing that the City and the United States are beneficiaries of and entitled to enforce such covenants. The Sub-recipient, in undertaking its obligation to carry out the program assisted hereunder, agrees to take such measures as are necessary to enforce such covenant, and will not itself so discriminate.

4. Section 504

The Sub-recipient agrees to comply with all Federal regulations issued pursuant to compliance with Section 504 of the Rehabilitation Act of 1973 (29 USC 794), which prohibits discrimination against the individuals with disabilities or handicaps in any Federally assisted program. The City shall provide the Sub-recipient with any guidelines necessary for compliance with that portion of the regulations in force during the term of this Agreement.

B. Equal Opportunity

1. Women- and Minority-Owned Businesses (W/MBE)

The Sub-recipient will use its best efforts to afford minority- and women-owned business enterprises the maximum practicable opportunity to participate in the performance of this contract. As used in this contract, the term “minority and female business enterprise” means a business at least fifty-one percent (51%) owned and controlled by minority group members or women. For the purpose of this definition, “minority group members” are Afro-Americans, Spanish-speaking, Spanish-surnamed or Spanish-heritage Americans, Asian-Americans, and American Indians. The Sub-recipient may rely on written representations by businesses regarding their status as minority and female business enterprises in lieu of an independent investigation.

2. Access to Records

The Sub-recipient shall furnish and cause each of its own subrecipients or subcontractors to furnish all information and reports required hereunder and will permit access to its books, records and accounts by the City, HUD or its agent, or other authorized Federal officials for purposes of investigation to ascertain compliance with the rules, regulations and provisions stated herein.

3. Notifications

The Sub-recipient will send to each labor union or representative of workers with which it has a collective bargaining Agreement or other contract or understanding, a notice, to be provided by the agency contracting office, advising the labor union or worker’s representative of the Sub-recipient’s commitments hereunder, and shall post copies of the notice in conspicuous places available to employees and applicants for employment.

4. Equal Employment Opportunity and Affirmative Action (EEO/AA) Statement

The Sub-recipient will, in all solicitations or advertisements for employees placed by or on behalf of the Sub-recipient, state that it is an Equal Opportunity or Affirmative Action employer.

5. Subcontract Provisions

The Sub-recipient will include the provisions of Paragraphs II.A., Civil Rights, and B., Equal Opportunity, in every subcontract or purchase order, specifically or by reference, so that such provisions will be binding upon each of its own subrecipients or contractors.

C. Employment Restrictions

1. Prohibited Activity

The Sub-recipient is prohibited from using funds provided herein or personnel employed in the administration of the program for: political activities; inherently religious activities; lobbying; political patronage; and nepotism activities.

2. Labor Standards

The Sub-recipient agrees to comply with the requirements of the Secretary of Labor in accordance with the Davis-Bacon Act as amended, the provisions of Contract Work Hours and Safety Standards Act (40 USC 327 *et seq.*), and all other applicable Federal, state and local laws and regulations pertaining to labor standards insofar as those acts apply to the performance of this Agreement. The Sub-recipient agrees to comply with the Copeland Anti-Kickback Act (18 USC 874 *et seq.*) and its implementing regulations of the US Department of Labor at 29 CFR Part 5. The Sub-recipient shall maintain documentation which demonstrates compliance with hour and wage requirements of this part. Such documentation shall be made available to the City for review upon request.

The Sub-recipient agrees that, except with respect to the rehabilitation or construction of residential property containing less than eight (8) units, all contractors engaged under contracts in excess of \$2,000.00 for construction, renovation or repair work financed in whole or in part with assistance provided under this contract, shall comply with Federal requirements adopted by the City pertaining to such contracts and with the applicable requirements of the regulations of the Department of Labor, under 29 CFR Parts 1, 3, 5 and 7 governing the payment of wages and ratio of apprentices and trainees to journey workers; provided, that if wage rates higher than those required under the regulations are imposed by state or local law, nothing hereunder is intended to relieve the Sub-recipient of its obligation, if any, to require payment of the higher wage. The Sub-recipient shall cause or require to be inserted in full, in all such contracts subject to such regulations, provisions meeting the requirements of this paragraph.

3. "Section 3" Clause

a) Compliance

Compliance with the provisions of Section 3 of the HUD Act of 1968, as amended, and as implemented by the regulations set forth in 24 CFR 75, and all applicable rules and orders issued hereunder prior to the execution of this contract, shall be a condition of the Federal financial assistance provided under this contract and binding upon the City, the Sub-recipient and any of the Sub-recipient's subrecipients and subcontractors. Failure to fulfill these requirements shall subject the City, the Sub-recipient and any of the Sub-recipient's subrecipients and subcontractors, their successors and assigns, to those sanctions specified by the Agreement through which Federal assistance is provided. The Sub-recipient certifies and agrees that no contractual or other disability exists that would prevent compliance with these requirements.

The Sub-recipient further agrees to comply with these "Section 3" requirements and to include the following language in all subcontracts executed under this Agreement:

"The work to be performed under this Agreement is a project assisted under a program providing direct Federal financial assistance from HUD and is subject to the requirements of Section 3 of the Housing and Urban Development Act of 1968, as amended (12 USC 1701). Section 3 requires that to the greatest extent feasible opportunities for training and employment be given to low- and very low-income residents of the project area, and that contracts for work in connection with the project be awarded to business concerns that provide economic opportunities for low- and very low-income persons residing in the metropolitan area in which the project is located."

The Sub-recipient further agrees to ensure that opportunities for training and employment arising in connection with a housing rehabilitation (including reduction and abatement of lead-based paint hazards), housing construction, or other public construction project are given to low- and very low-income persons residing within the metropolitan area in which the CDBG-funded project is located; where feasible, priority should be given to low- and very low-income persons within the service area of the project or the neighborhood in which the project is located, and to low- and very low-income participants in other HUD programs; and award contracts for work undertaken in connection with a housing rehabilitation (including reduction and abatement of lead-based paint hazards), housing construction, or other public construction project to business concerns that provide economic opportunities for low- and very low-income persons residing within the metropolitan area in which the CDBG-funded project is located; where feasible, priority should be given to business concerns that provide economic opportunities to low- and very low-income residents within the service area or the neighborhood in which the project is located, and to low- and very low-income participants in other HUD programs.

The Sub-recipient certifies and agrees that no contractual or other legal incapacity exists that would prevent compliance with these requirements.

b) Notifications

The Sub-recipient agrees to send to each labor organization or representative of workers with which it has a collective bargaining Agreement, or other contract or understanding, if any, a notice advising said labor organization or worker's representative of its commitments under this Section 3 clause and shall post copies of the notice in conspicuous places available to employees and applicants for employment or training.

c) Subcontracts

The Sub-recipient will include this Section 3 clause in every subcontract and will take appropriate action pursuant to the subcontract upon a finding that the subcontractor is in violation of regulations issued by the grantor agency. The Sub-recipient will not subcontract with any entity where it has notice or knowledge that the latter has been found in violation of regulations under 24 CFR 75 and will not let any subcontract unless the entity has first provided it with a preliminary statement of ability to comply with the requirements of these regulations.

D. Conduct

1. Assignability

The Sub-recipient shall not assign or transfer any interest in this contract without the prior written consent of the City thereto; provided, however, that claims for money due or to become due to the Sub-recipient from the City under this contract may be assigned to a bank, trust company, or other financial institution without such approval. Notice of any such assignment or transfer shall be furnished promptly to the City.

2. Subcontracts

a) Approvals

The Sub-recipient shall not enter into any subcontracts with any agency or individual in the performance of this contract without the written consent of the City prior to the execution of such Agreement.

b) Monitoring

The Sub-recipient will monitor all subcontracted services on a regular basis to assure contract compliance. Results of monitoring efforts shall be summarized in written reports and supported with documented evidence of follow-up actions taken to correct areas of noncompliance.

c) Content

The Sub-recipient shall cause all of the provisions of this contract in its entirety to be included in and made a part of any subcontract executed in the performance of this Agreement.

d) Selection Process

The Sub-recipient shall undertake to ensure that all subcontracts let in the performance of this Agreement shall be awarded on a fair and open competition basis. Executed copies of all subcontracts shall be forwarded to the City along with documentation concerning the selection process.

3. Hatch Act

The Sub-recipient agrees that no funds provided, nor personnel employed under this contract, shall be in any way or to any extent engaged in the conduct of political activities in violation of Chapter 15 of Title V of the USC.

4. Conflict of Interest

The Sub-recipient agrees to abide by the provisions of 2 CFR Part 200 and 570.611, which include (but are not limited to) the following:

- a) The Sub-recipient shall maintain a written code or standards of conduct that shall govern the performance of its officers, employees or agents engaged in the award and administration of contracts supported by Federal funds.
- b) No employee, officer or agent of the Sub-recipient shall participate in the selection, or in the award, or administration of, a contract supported by Federal funds if a conflict of interest, real or apparent, would be involved.
- c) No covered person who exercise or have exercised any functions or responsibilities with respect to CDBG-assisted activities, or who are in a position to participate in a decision-making process or gain inside information with regard to such activities, may obtain a financial interest in any contract, or have a financial interest in any contract, subcontract, or Agreement with respect to the CDBG-assisted activity, or with respect to the proceeds from the CDBG-assisted activity, either for themselves or those with whom they have business or immediate family ties, during their tenure or for a period of one (1) year thereafter. For purposes of this paragraph, a “covered person” includes any person who is an employee, agent, consultant, officer, or elected or appointed official of the Sub-recipient, the City, or any designated public agency.

5. Lobbying

The Sub-recipient hereby certifies that:

- a) No Federal appropriated funds have been paid or will be paid, by or on behalf of it, to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the awarding of any Federal contract, the making of any Federal grant, the making of any Federal loan, the entering into of any cooperative Agreement, and the extension, continuation, renewal, amendment, or modification of any Federal contract, grant, loan, or cooperative Agreement;
- b) If any funds other than Federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this Federal contract, grant, loan, or cooperative Agreement, it will complete and submit Standard Form-LLL, “Disclosure Form to Report Lobbying,” in accordance with its instructions; and
- c) It will require that the language of paragraph (d) of this certification be included in the award documents for all subawards at all tiers (including subcontracts, subgrants, and contracts under grants, loans, and cooperative Agreements) and that all subrecipients shall certify and disclose accordingly:
- d) Lobbying Certification:
This certification is a material representation of fact upon which reliance was placed when this transaction was made or entered into. Submission of this certification is a prerequisite for making or entering into this transaction imposed by section 1352, title 31, USC. Any person who fails to file the required certification shall be subject to a civil penalty of not less than \$10,000 and not more than \$100,000 for each such failure.

6. Copyright

If this contract results in any copyrightable material or inventions, the City and/or grantor agency reserves the right to royalty-free, non-exclusive and irrevocable license to reproduce, publish or otherwise use and to authorize others to use, the work or materials for governmental purposes.

7. Religious Activities

The Sub-recipient agrees that funds provided under this Agreement will not be utilized for inherently religious activities prohibited by 24 CFR 570.200(j), such as worship, religious instruction, or proselytization.

III. Environmental Conditions

A. Air and Water

The Sub-recipient agrees to comply with the following requirements insofar as they apply to the performance of this Agreement:

- Clean Air Act, 42 USC, 7401 *et seq.*
- Federal Water Pollution Control Act, as amended, 33 USC, 1251, *et seq.*, as amended, 1318 relating to inspection, monitoring, entry, reports, and information, as well as other requirements specified in said Section 114 and Section 308, and all regulations and guidelines issued thereunder.
- Environmental Protection Agency (EPA) regulations pursuant to 40 CFR Part 50, as amended.

B. Flood Disaster Protection

In accordance with the requirements of the Flood Disaster Protection Act of 1973 (42 USC 4001), the Sub-recipient shall assure that for activities located in an area identified by the Federal Emergency Management Agency (FEMA) as having special flood hazards, flood insurance under the National Flood Insurance Program is obtained and maintained as a condition of financial assistance for acquisition or construction purposes (including rehabilitation).

C. Lead-Based Paint

The Sub-recipient agrees that any construction or rehabilitation of residential structures with assistance provided under this Agreement shall be subject to HUD Lead-Based Paint Regulations at 24 CFR 570.608, and 24 CFR Part 35, Subpart B. Such regulations pertain to all CDBG-assisted housing and require that all owners, prospective owners, and tenants of properties constructed prior to 1978 be properly notified that such properties may include lead-based paint. Such notification shall point out the hazards of lead-based paint and explain the symptoms, treatment and precautions that should be taken when dealing with lead-based paint poisoning and the advisability and availability of blood lead level screening for children under seven. The notice should also point out that if lead-based paint is found on the property, abatement measures may be undertaken. The regulations further require that, depending on the amount of Federal funds applied to a property, paint testing, risk assessment, treatment and/or abatement may be conducted.

D. Historic Preservation

The Sub-recipient agrees to comply with the Historic Preservation requirements set forth in the National Historic Preservation Act of 1966, as amended (16 USC 470) and the procedures set forth in 36 CFR Part 800, Advisory Council on Historic Preservation Procedures for Protection of Historic Properties, insofar as they apply to the performance of this Agreement.

In general, this requires concurrence from the State Historic Preservation Officer for all rehabilitation and demolition of historic properties that are fifty years old or older or that are included on a Federal, state, or local historic property list.

IV. General Conditions

A. Responsibilities

The Grantee will carry out its activities in compliance with the requirements of Subpart K of 24 CFR 570, except, however, that the Grantee does not assume the City's environmental responsibilities or the responsibility for initiating the environmental review process under 24 CFR part 52.

Exhibit C

City of Goshen Weekly Payment Procedures for CDBG Claims Effective December 8, 2014

Thursday NOON	Deadline to submit claims to CDBG Administrator for processing the following week
Friday	CDBG Administrator Review of Claim: Incomplete claims will be held until all required information is received
Monday (Week 1)	CDBG Administrator Reporting in HUD's online system for each claim (required before a claim may be processed)
Tuesday AM Tuesday PM	First drawdown authorization by CDBG Administrator Voucher submitted by CDBG Administrator to Clerk Treasurer's Office
Wednesday Wednesday, 5pm	Second drawdown authorization by Clerk Treasurer's Office Deadline for claim to be processed by Clerk Treasurer's Office for Board of Works
Monday (Week 2)	Claim approved and signed by Board of Works – all CDBG vouchers must be hand-signed by BOW members
Tuesday	Check written by Clerk Treasurer's Office

Exhibit D
Tax Exempt Status

Internal Revenue Service
Director, Exempt Organizations
Rulings and Agreements

Department of the Treasury
P.O. Box 2508
Cincinnati, Ohio 45201

Date: **JAN 28 2003**

LaCasa of Goshen, Inc.
202 North Cottage Avenue
Goshen, IN 46256-3346

Person to Contact:
Thomas Kallman, ID# 31-07250
Contact Telephone Numbers:
877-829-5500 Phone Toll-Free
513-263-3756 FAX
Federal Identification Number:
35-1554538

Dear Sir or Madam:

This modifies our letter dated November 18, 1970. In that letter we determined that your organization is exempt under section 501(a) of the Internal Revenue Code, as an organization described in section 501(c)(3). We determined that you were not a private foundation within the meaning of section 509(a) of the Code because you were an organization described in sections 509(a)(1) and 170(b)(1)(A)(i) of the Code.

In your letter dated November 11, 2002, you requested classification as an organization described in sections 509(a)(1) and 170(b)(1)(A)(vi) of the Code. Based on the information you provided, we have determined that you meet the requirements for the requested foundation classification. Accordingly, we have granted your request and modified your foundation status to reflect an organization described in sections 509(a)(1) and 170(b)(1)(A)(vi).

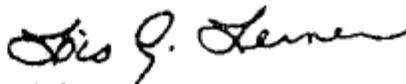
Your exempt status under section 501(a) of the Internal Revenue Code, as an organization described in section 501(c)(3) remains in effect.

Grantors and contributors may rely on this determination until the Internal Revenue Service publishes notice to the contrary. However, if you lose your section 509(a)(1) status, a grantor or contributor may not rely on this determination if he or she was in part responsible for, or was aware of, the act or failure to act that resulted in your loss of such status, or acquired knowledge that the Internal Revenue Service had given notice that you would be removed from classification as a section 509(a)(1) organization.

Because this letter could help resolve any questions about your exempt status and/or foundation status, you should keep it with your permanent records.

If you have any questions, please contact the person whose name and telephone number are shown in the heading of this letter.

Sincerely,



Lois G. Lerner
Director, Exempt Organizations
Rulings and Agreements

cc: Randall M. Jacobs



CITY OF GOSHEN LEGAL DEPARTMENT

City Annex
204 East Jefferson Street, Suite 2
Goshen, Indiana 46528-3405

Phone (574) 537-3820 • Fax (574) 533-8626 • TDD (574) 534-3185
www.goshenindiana.org

August 1, 2023

To: Board of Public Works and Safety
From: Don Shuler
Subject: Transfer of Real Estate to Redevelopment

Attached for the Board's approval and execution is Resolution 2023-23 to transfer title to and control of certain real estate to the Goshen Redevelopment Commission. The transfer furthers the ongoing development of Cherry Creek; part of the property transferred will be sold to Cherry Creek (with an additional land swap returned to the City) in furtherance of the Cherry Creek development. Also attached is the Warranty Deed for execution by the Mayor.

Suggested Motion:

Move to approve the Resolution as presented and authorize the Mayor to execute the Warranty Deed transferring the subject real estate to the Goshen Redevelopment Commission.

RESOLUTION 2023-23

Authorizing the Transfer of Regent Street Real Estate

WHEREAS the City of Goshen, Indiana acquired title to the real estate generally located east and south of Regent Street, north of Waterford Mills Parkway, and west of Dierdorff Road by Corrective Warranty Deed dated January 29, 2001 and recorded December 28, 2001 as Instrument Number 2001-42758, by Warranty Deed December 17, 2001 and recorded December 28, 2001 as Instrument Number 2001-42758, and by Warranty Deed dated December 22, 2000 and recorded December 28, 2000 as Instrument Number 2000-34929, from Waterford Development Corp.;

WHEREAS, the Goshen Board of Public Works and Safety desires to transfer said Real Estate and control thereof to the Goshen Redevelopment Commission to be held and disposed of under Indiana Code § 36-7-14-22.

NOW, THEREFORE, BE IT RESOLVED that the Goshen Board of Public Works and Safety authorizes the transfer of and control of the Regent Street Real Estate to the Goshen Redevelopment Commission.

PASSED and ADOPTED on _____, 2023.

Gina M. Leichty, Mayor

Michael Landis, Member

Mary Nichols, Member

Barb Swartley, Member



CITY OF GOSHEN LEGAL DEPARTMENT
Donald R. Shuler, Assistant City Attorney

City Annex
204 East Jefferson Street, Suite 2
Goshen, Indiana 46528-3405

donshuler@goshencity.com • www.goshenindiana.org
Phone (574) 537-3855 • Fax (574) 533-8626 • TDD (574) 534-3185

August 3, 2023

To: Board of Public Works and Safety

From: Don Shuler

RE: Resolution 2023-24 – Acquisition of Real Estate at 1723 Reliance Road

The City is planning to make roadway improvements at the intersection of Reliance Road and Peddler's Village Road and needs to acquire certain real estate for this project. Resolution 2023-24 approves the terms and conditions of an Agreement for the Sale and Purchase of the Real Estate with Samuel S. Perri and Sue A. Perri for the City's acquisition of real estate at 1723 Reliance Road, and authorizes the Mayor to execute the Agreement and any other documents on behalf of the Board and the City of Goshen for this purpose.

Suggested Motion:

Move to adopt Resolution 2023-24, Acquisition of Real Estate at 1723 Reliance Road.

**Goshen Board of Public Works and Safety
Resolution 2023-24**

Acquisition of Real Estate at 1723 Reliance Road

WHEREAS, the City of Goshen plans to make roadway improvements at the intersection of Reliance Road and Peddler’s Village Road, hereinafter referred to as the “Project”;

WHEREAS, the City of Goshen needs to acquire certain real estate for the Project more commonly known as 1723 Reliance Road, Goshen, hereinafter referred to as the “Real Estate”;

WHEREAS, the Goshen Redevelopment Commission is providing funding for the City’s acquisition of the Real Estate.

NOW, THEREFORE, BE IT RESOLVED by the Goshen Board of Public Works and Safety that:

1. The terms and conditions of the Agreement for the Sale and Purchase of Real Estate attached to and made a part of this resolution are approved.
2. Mayor Gina M. Leichty is authorized to execute the Agreement for the Sale and Purchase of Real Estate and any other documents on behalf of the Goshen Board of Public Works and Safety and the City of Goshen that are necessary to effectuate the City’s acquisition of the Real Estate.
3. The execution of this Agreement for the Sale and Purchase of Real Estate shall be presented to the Goshen Redevelopment Commission for approval and/or ratification.

PASSED by the Goshen Board of Public Works and Safety on August 7, 2023.

Gina M. Leichty, Mayor

Michael Landis, Member

Mary Nichols, Member

Barb Swartley, Member

AGREEMENT FOR THE SALE AND PURCHASE OF REAL ESTATE

THIS AGREEMENT is made and entered into on _____, 2023, which is the last signature date set forth below, by and between **Samuel S. Perri and Sue A. Perri, husband and wife** (“Seller”), and **City of Goshen, Indiana**, a municipal corporation and political subdivision of the State of Indiana, acting through the Goshen Board of Public Works and Safety (“Goshen”).

REAL ESTATE

In consideration of the purchase price and on the terms, covenants and conditions to be kept and performed by the respective parties, Seller agrees to sell and Goshen agrees to purchase the following real estate located in Concord Township, Elkhart County, Indiana, more commonly known as **1723 Reliance Road, Goshen, IN 46526**, and more particularly described as follows:

A part of the Southeast Quarter of Section 36, Township 37 North, Range 5 East, Concord Township, Elkhart County, Indiana, and more particularly described as follows:

Beginning at a Harrison monument marking the Southeast corner of said Southeast Quarter; thence West, 174.84 feet, along the South line of said Southeast Quarter, and County Road 28, to the Southeast corner of the recorded plat of Kilmer Minor (Plat Book 18, Page 34); thence North 00 degrees, 49 minutes East, 180.32 feet, to a rebar at the Northeast corner of said plat; thence West, 390.12 feet along the North line of said Kilmer Minor and the North line of Lots 1 and 2 in the recorded plat of Deerfield (Plat Book 9, Page 41), to an iron pipe; thence North 00 degrees, 43 minutes, 55 seconds West, 197.30 feet, along the East lines of Lots 7, 8, and 9 in the recorded plat of Deerfield, to a rebar; thence East, 564.28 feet, to a point on the East line of said Southeast Quarter; thence South 00 degrees, 49 minutes, 39 seconds East, 22.64 feet, along the last described line and County Road 17; thence West, 185.00 feet; thence South 00 degrees, 49 minutes, 39 seconds East, 100.00 feet; thence East, 185.00 feet, to a point on the East line of said Southeast Quarter; thence South 00 degrees, 49 minutes, 39 seconds East, 255.00 feet, along the last described line and County Road 17, to the point of beginning.

AND

A part of the Southeast Quarter of Section 36, Township 37 North, Range 5 East, in Concord Township, Elkhart County, Indiana, more particularly described as follows: Beginning at a point on the East line of said Quarter Section that is 255 feet North of the Southeast corner of said Quarter Section; thence Westwardly parallel with the South line of said Quarter Section, 185 feet; thence Northwardly parallel with the East line of said Quarter Section, 100 feet; thence Eastwardly parallel with the South line

of said Quarter Section, 185 feet to the East line of said Quarter Section; thence Southwardly along the East line of said Quarter Section, 100 feet to the place of beginning.

Subject to all legal highways, easements, and restrictions of record.

Parcel Numbers: 20-06-36-478-008.000-013
20-06-36-478-017.000-013

The above described real estate is hereinafter referred to as the "Real Estate."

The Real Estate shall include all land, all pertinent rights, privileges and easements and all buildings and fixtures in their present condition.

IN LIEU OF EMINENT DOMAIN

Goshen is acquiring the Real Estate make roadway improvements at the intersection of Reliance Road and Peddler's Village Road. While the terms have been amicably negotiated between the parties, the parties have entered into the negotiation process to avoid the commencement of an eminent domain lawsuit.

PURCHASE PRICE

Goshen agrees to pay and Seller agrees to accept the total sum of Three Hundred Thirty Thousand One Hundred Dollars (\$330,100.00) to be paid at the closing.

APPRAISAL

Seller has obtained at Seller's expense an appraisal of the Real Estate. Seller has supplied a copy of the appraisal to Goshen.

ADDITIONAL COMPENSATION DUE SELLER

In addition to the purchase price set forth in the agreement, Goshen owes the following additional obligations to Seller for the Seller's relocation to a new site.

(1) In accordance with Indiana Code § 8-23-17-13(1), Goshen will pay to Seller actual reasonable expenses incurred by Seller in moving. The payment will be made after possession of the Real Estate is delivered to Goshen and within thirty (30) days after Goshen receives an invoice with supporting expense documentation from Seller.

(2) In accordance with Indiana Code § 8-23-17-17(a), Goshen will pay to Seller Two Thousand Five Hundred Dollars (\$2,500) to enable Seller to make a down payment on

the purchase of an adequate replacement dwelling. The payment will be made within thirty (30) days of the execution of this agreement or at closing, whichever occurs first.

(3) In accordance with Indiana Code § 8-23-17-17(b), Goshen will pay to Seller reasonable expenses incurred by Seller for evidence of title, recording fees, and other closing costs incidental to the purchase of the replacement dwelling, but not including prepaid expenses. The payment will be made within thirty (30) days after Goshen receives a supporting expense documentation (i.e., settlement statement) from Seller.

(4) In accordance with Indiana Code § 8-23-17-18 and Indiana Code § 8-23-17-20 and upon request of Seller, Goshen agrees to provide relocation assistance to Seller.

TAXES AND ASSESSMENTS

Seller shall pay the real estate taxes and assessments for 2022 due and payable in 2023. The real estate taxes and assessments for 2023 due and payable in 2024 shall be prorated between Seller and Goshen as of the date of closing. If the tax rate and/or assessment for taxes have not been determined, the rate and/or assessment shall be assumed to be the same as the prior year for the purpose of proration and credit for due but unpaid taxes and assessments. Goshen shall pay all real estate taxes and assessments for 2024 due and payable in 2025 and thereafter.

TITLE SEARCH

A title search for the Real Estate shall be obtained. The cost of the title search shall be paid by Goshen. Any encumbrances or defects in title must be removed by Seller and Seller must convey merchantable title subject to standard title exceptions. Seller agrees to pay the cost of obtaining all other documents necessary to perfect title so that merchantable title can be conveyed.

WARRANTY DEED

Seller shall deliver to Goshen a warranty deed conveying merchantable title to the Real Estate free and clear of all liens and encumbrances, except conditions of record including, but not limited to zoning restrictions, taxes, easements, and assessments. Title shall be transferred to "City of Goshen, Indiana".

CLOSING

A closing will be held on or before August 31, 2023, unless the parties agree to a later date in writing. Goshen will pay the cost of the closing agent and costs of the closing except to the extent that such costs are specifically designated as the cost of the Seller by the terms of this agreement.

POSSESSION OF REAL ESTATE

(1) Possession and occupancy of the Real Estate will be delivered to Goshen on or before September 15, 2023, unless a later date of occupancy is agreed to in writing by Seller and Goshen.

(2) Except for any salvage rights granted to Seller, Seller shall maintain the Real Estate in its present condition as long as Seller retains possession.

(3) Seller shall remove all personal property and debris that is not included in the sale.

(4) Seller shall be responsible for payment of all utility charges through the date of possession.

(5) Seller shall assume the risk of loss until the closing at which time Goshen shall assume the risk of loss, unless Seller retains possession after the closing date. If possession is retained by Seller, the risk of loss shall remain with Seller until possession is given to Goshen.

SALVAGE RIGHTS

As long as the structure on the Real Estate can be secured and remains stable and safe, Seller may salvage any fixtures or other parts of the structure. It is understood and agreed by the Parties that the salvage rights of Seller shall be given to and executed by Habitat for Humanity, its agent for purposes of these salvage rights. Seller and/or its agent, Habitat for Humanity, must complete all salvage work by September 15, 2023.

AMENDMENT

Any amendment or modification to the terms and conditions of the agreement shall not be binding unless made in writing and signed by both parties. Any verbal representations or modifications concerning the agreement shall be of no force and effect.

MISCELLANEOUS

(1) This agreement shall be construed in accordance with and governed by the laws of the State of Indiana.

(2) In the event that legal action is brought to enforce or interpret the terms of and conditions of this agreement, the proper venue for such action will be in a court of competent jurisdiction in Elkhart County, Indiana.

(3) In the event that either party brings an action to enforce any right conferred by this agreement or to force the other party to fulfill any obligation imposed by this agreement, the prevailing party of such action shall be entitled to recover all costs of that action, including reasonable attorneys' fees.

(4) In the event that any provision of this agreement is found to be invalid or unenforceable, then such provision shall be reformed in accordance with applicable law. The invalidity or unenforceability of any provision of this agreement shall not affect the validity or enforceability of any other provision of this agreement.

(5) All provisions, covenants, terms and conditions of this agreement apply to and bind the parties and their legal heirs, representatives, successors and assigns.

(6) This agreement constitutes the entire agreement between the parties and supersedes all other agreements or understanding between Goshen and Seller.

IN WITNESS WHEREOF, the parties have set their hands to this agreement on the dates as set forth below.

Seller

Goshen

Samuel S. Perri

Gina M. Leichty, Mayor
Goshen Board of Public Works & Safety
City of Goshen, Indiana

Date:_____

Sue A. Perri

Date:_____



CITY OF GOSHEN LEGAL DEPARTMENT

City Annex
204 East Jefferson Street, Suite 2
Goshen, Indiana 46528-3405

Phone (574) 537-3820 • Fax (574) 537-3817 • TDD (574) 534-3185
www.goshenindiana.org

August 2, 2023

To: Board of Public Works and Safety

From: Brandy L. Toms

Subject: Agreement with OJS Building Services, Inc to install spacepak in Engineering Department

Attached for the Board's approval and execution is an agreement with OJS Building Services, Inc. for the replacement of a spacepak unit located in the Annex Building in the Engineering Department. OJS Building Services, Inc., will be paid \$6,600 this service.

Suggested Motion:

Approve and execute the agreement with OJS Building Services, Inc., for the replacement of a spacepak unit located in the Annex Building in the Engineering Department at a cost of \$6,600.

AGREEMENT

With OJS Building Services, Inc for the Replacement of a Spacepac Unit Located in the Annex Building in Engineering Department

THIS AGREEMENT is entered into on _____, 2023, which is the last signature date set forth below, by and between **OJS Building Services, Inc** (“Contractor”), whose mailing address is **1825 E. 12th Street, Mishawaka, Indiana 46544**, and **City of Goshen, Indiana**, a municipal corporation and political subdivision of the State of Indiana acting through the Goshen Board of Public Works and Safety (“City”).

In consideration of the terms, conditions and mutual covenants contained in this agreement, the parties agree as follows:

Section 1. Contractor Duties

Contractor shall provide City the following work which shall include the provision of all labor, supplies, materials, tools, equipment, supervision, insurance and all other items necessary to replace the complete Spacepac in Engineering Department (hereinafter referred to as “Duties”). Contractor’s Duties under this agreement include:

- (A) Remove old unit and leave with City for a parts unit.
- (B) Install a new Spacepac 45ESP3642KJ4MB indoor unit.
- (C) Rework condensate, electrical and ductwork as needed to change out the unit.
- (D) Include new line dry
- (E) Leak test system
- (F) Recharge and adjust the refrigerant system.
- (G) Install new Honeywell T6 thermostat
- (H) Start up and test system
- (I) Remove any waste and clean work area.

If this system does not operate at the static pressure mandated by the manufacture, the alterations made to the duct system will be an additional cost not included in the estimated price.

Section 2. Effective Date; Term

- (A) The agreement shall become effective on the day of execution and approval by both parties.
- (B) Contractor acknowledges that time is of the essence and that the timely performance of its Duties is an important element of this agreement. Contractor shall perform all Duties as expeditiously as is consistent with professional skill and care in the orderly progress of the Duties.
- (C) Contractor shall commence the Duties as soon as practical after receiving a notice to proceed from City.

Section 3. Compensation

- (A) City agrees to compensate Contractor the sum of Six Thousand Six Hundred Dollars (\$6,600) for performing all Duties.

Section 4. Payment

- (B) Payment shall be upon City's receipt of a detailed invoice from Contractor. The invoice shall be sent to the following address, or at such other address as City may designate in writing.

City of Goshen
c/o Goshen Maintenance Department
Attn: Jeff Halsey
204 East Jefferson Street
Goshen, IN 46528

- (C) Payment will be made within forty-five (45) days following City's receipt of the invoice. If any dispute arises, the undisputed amount will be paid. Payment is deemed to be made on the date of mailing the check.
- (D) Contractor is required to have a current W-9 form on file with the Goshen Clerk-Treasurer's Office before City will issue payment.

Section 5. Licensing/Certification Standards

Contractor certifies that Contractor possesses and agrees to maintain any and all licenses, certifications, or accreditations as required for the work performed by Contractor pursuant to this agreement.

Section 6. Warranty

Contractor will warranty all labor perform pertaining to the installation of the spacepac for one (1) year from date of installation. All equipment comes with a manufactures' warranty of one (1) year.

Section 7. Independent Contractor

- (A) Contractor shall operate as a separate entity and independent contractor of the City of Goshen. Any employees, agents or subcontractors of Contractor shall be under the sole and exclusive direction and control of Contractor and shall not be considered employees, agents or subcontractors of City. City shall not be responsible for injury, including death, to any persons or damages to any property arising out of the acts or omissions of Contractor and/or Contractor's employees, agents or subcontractors.
- (B) Contractor understands that City will not carry worker's compensation or any other insurance on Contractor and/or Contractor's employees or subcontractors. Contractor is solely responsible for compliance with all federal, state and local laws regarding reporting of compensation earned and payment of taxes. City will not withhold federal, state or local income taxes or any other payroll taxes.

Section 8. Non-Discrimination

Contractor agrees to comply with all federal and Indiana civil rights laws, including, but not limited to Indiana Code §22-9-1-10. Contractor or any subcontractors, or any other person acting on behalf of Contractor or a subcontractor, shall not discriminate against any employee or applicant for employment to be employed in the performance of this agreement, with respect to the employee's hire, tenure, terms, conditions, or privileges of employment or any other matter directly or indirectly related to employment, because of the employee's or applicant's race, religion, color, sex, disability, national origin, or ancestry. Breach of this covenant may be regarded as a material breach of contract.

Section 9. Employment Eligibility Verification

- (A) Contractor shall enroll in and verify the work eligibility status of all Contractor's newly hired employees through the E-Verify program as defined in Indiana Code §22-5-1.7-3. Contractor is not required to participate in the E-Verify program should the program cease to exist. Contractor is not required to participate in the E-Verify program if Contractor is self-employed and does not employ any employees.
- (B) Contractor shall not knowingly employ or contract with an unauthorized alien, and contractor shall not retain an employee or continue to contract with a person that the Contractor subsequently learns is an unauthorized alien.
- (C) Contractor shall require their subcontractors, who perform work under this contract, to certify to the Contractor that the subcontractor does not knowingly employ or contract with an unauthorized alien and that the subcontractor has enrolled and is participating in the E-Verify program. Contractor agrees to maintain this certification throughout the duration of the term of a contract with a subcontractor.
- (D) City may terminate the contract if Contractor fails to cure a breach of this provision no later than thirty (30) days after being notified by City of a breach.

Section 10. Contracting with Relatives

Pursuant to Indiana Code §36-1-21, if the Contractor is a relative of a City of Goshen elected official or a business entity that is wholly or partially owned by a relative of a City of Goshen elected official, the Contractor certifies that Contractor has notified both the City of Goshen elected official and the City of Goshen Legal Department of the relationship prior to entering into this agreement.

Section 11. No Investment Activities in Iran

In accordance with Indiana Code §5-22-16.5, Contractor certifies that Contractor does not engage in investment activities in Iran as defined by Indiana Code §5-22-16.5-8.

Section 12. Indemnification

Contractor shall indemnify and hold harmless the City of Goshen and City's agents, officers, and employees from and against any and all liability, obligations, claims, actions, causes of action, judgments, liens, damages, penalties or injuries arising out of any intentional, reckless or negligent act or omission by Contractor or any of Contractor's agents, officers and employees during the performance of work under this agreement. Such indemnity shall include reasonable attorney's fees and all reasonable litigation costs and other expenses incurred by City only if Contractor is determined liable to the City for any intentional,

reckless or negligent act or omission in a judicial proceeding, and shall not be limited by the amount of insurance coverage required under this agreement.

Section 13. Insurance

- (A) Prior to commencing work, the Contractor shall furnish City a certificate of insurance in accordance with the following minimum requirements, shall maintain the insurance in full force and effect, and shall keep on deposit at all times during the term of the contract with City the certificates of proof issued by the insurance carrier that such insurance is in full force and effect. Contractor shall specifically include coverage for the City of Goshen as an additional insured for Employer's Liability, General Liability and Automobile Liability.
- (B) Each certificate shall require that written notice be given to the City at least thirty (30) days prior to the cancellation or a material change in the policy.
- (C) Contractor shall at least include the following types of insurance with the following minimum limits of liability:
 - (1) Workers Compensation and Employer's Liability - Statutory Limits
 - (2) General Liability - Combined Bodily Injury and Property Damage, \$1,000,000 each occurrence and aggregate
 - (3) Automobile Liability - Combined Bodily Injury and Property Damage, \$1,000,000 each occurrence and aggregate
 - (4) Professional Liability - Combined Bodily Injury and Property Damage, \$1,000,000 each occurrence and aggregate
 - (5) Excess Umbrella Coverage - \$1,000,000 each occurrence

Section 14. Force Majeure

- (A) Except for payment of sums due, neither party shall be liable to the other or deemed in default under this contract if and to the extent that such party's performance under this contract is prevented by reason of force majeure. The term "force majeure" means an occurrence that is beyond the control of the party and could not have been avoided by exercising reasonable diligence. Examples of force majeure are natural disasters or decrees of governmental bodies not the fault of the affected party.
- (B) If either party is delayed by force majeure, the party affected shall provide written notice to the other party immediately. The notice shall provide evidence of the force majeure event to the satisfaction of the other party. The party shall do everything possible to resume performance. If the period of non-performance exceeds thirty (30) calendar days, the party whose ability to perform has not been affected may, by giving written notice, terminate the contract and the other party shall have no recourse.

Section 15. Default

- (A) If Contractor fails to perform the work or comply with the provisions of this agreement, then Contractor may be considered in default.
- (B) It shall be mutually agreed that if Contractor fails to perform the work or comply with the provisions of this contract, City may issue a written notice of default and provide a period of time that shall

not be less than fifteen (15) days in which Contractor shall have the opportunity to cure. If the default is not cured within the time period allowed, the contract may be terminated by the City. In the event of default and failure to satisfactorily remedy the default after receipt of written notice, the City may otherwise secure similar work in any manner deemed proper by the City, and Contractor shall be liable to the City for any excess costs incurred

- (C) Contractor may also be considered in default by the City if any of the following occur:
- (1) There is a substantive breach by Contractor of any obligation or duty owed under the provisions of this contract.
 - (2) Contractor is adjudged bankrupt or makes an assignment for the benefit of creditors.
 - (3) Contractor becomes insolvent or in an unsound financial condition so as to endanger performance under the contract.
 - (4) Contractor becomes the subject of any proceeding under law relating to bankruptcy, insolvency or reorganization, or relief from creditors and/or debtors.
 - (5) A receiver, trustee, or similar official is appointed for Contractor or any of Contractor's property.
 - (6) Contractor is determined to be in violation of federal, state, or local laws or regulations and that such determination renders Contractor unable to perform the work described under these Specification Documents.
 - (7) The contract or any right, monies or claims are assigned by Contractor without the consent of the City.

Section 16. Termination

- (A) The agreement may be terminated in whole or in part, at any time, by mutual written consent of both parties. Contractor shall be paid for all work completed and expenses reasonably incurred prior to notice of termination.
- (B) City may terminate this agreement, in whole or in part, in the event of default by Contractor.
- (C) The rights and remedies of the parties under this section shall not be exclusive and are in addition to any other rights and remedies provided by law or under this agreement.

Section 17. Notice

Any notice required or desired to be given under this agreement shall be deemed sufficient if it is made in writing and delivered personally or sent by regular first-class mail to the parties at the following addresses, or at such other place as either party may designate in writing from time to time. Notice will be considered given three (3) days after the notice is deposited in the US mail or when received at the appropriate address.

City: City of Goshen, Indiana
Attention: Goshen Legal Department
204 East Jefferson St., Suite 2
Goshen, IN 46528

Contractor: OJS Building Services, Inc
Attention: Andrew A. Miller
1825 E 12th Street
Mishawaka, IN 46544

Section 18. Subcontracting or Assignment

Contractor shall not subcontract or assign any right or interest under the agreement, including the right to payment, without having prior written approval from City. Any attempt by Contractor to subcontract or assign any portion of the agreement shall not be construed to relieve Contractor from any responsibility to fulfill all contractual obligations.

Section 19. Amendments

Any modification or amendment to the terms and conditions of the agreement shall not be binding unless made in writing and signed by both parties. Any verbal representations or modifications concerning the agreement shall be of no force and effect.

Section 20. Waiver of Rights

No right conferred on either party under this agreement shall be deemed waived and no breach of this agreement excused unless such waiver or excuse shall be in writing and signed by the party claimed to have waived such right.

Section 21. Applicable Laws

- (A) Contractor agrees to comply with all applicable federal, state, and local laws, rules, regulations, or ordinances. All contractual provisions legally required to be included are incorporated by reference.
- (B) Contractor agrees to obtain and maintain all required permits, licenses, registrations, and approvals, and shall comply with all health, safety, and environmental rules or regulations in the performance of the work. Failure to do so may be deemed a material breach of agreement.

Section 22. Miscellaneous

- (A) Any provision of this agreement or incorporated documents shall be interpreted in such a way that they are consistent with all provisions required by law to be inserted into the agreement. In the event of a conflict between these documents and applicable laws, rules, regulations or ordinances, the most stringent or legally binding requirement shall govern.
- (C) This agreement shall be construed in accordance with and governed by the laws of the State of Indiana and any suit must be brought in a court of competent jurisdiction in Elkhart County, Indiana.
- (D) In the event legal action is brought to enforce or interpret the terms and conditions of this agreement, the prevailing party of such action shall be entitled to recover all costs of that action, including reasonable attorneys' fees.

Section 23. Severability

In the event that any provision of the agreement is found to be invalid or unenforceable, then such provision shall be reformed in accordance with applicable law. The invalidity or unenforceability of any provision of the agreement shall not affect the validity or enforceability of any other provision of the agreement.

Section 24. Binding Effect

All provisions, covenants, terms and conditions of this agreement apply to and bind the parties and their legal heirs, representatives, successors and assigns.

Section 25. Entire Agreement

This agreement constitutes the entire agreement between the parties and supersedes all other agreements or understandings between City and Contractor.

Section 26. Authority to Bind Contractor

The undersigned affirm that all steps have been taken to authorize execution of this agreement, and upon the undersigned's execution, bind their respective organizations to the terms of the agreement.

IN WITNESS WHEREOF, the parties have executed this agreement on the dates as set forth below.

City of Goshen, Indiana
Goshen Board of Public Works and Safety

OJS Building Services, Inc

Gina Leichty, Mayor

Date Signed: _____

Printed: _____

Title: _____

Date Signed: _____



CITY OF GOSHEN LEGAL DEPARTMENT

City Annex
204 East Jefferson Street, Suite 2
Goshen, Indiana 46528-3405

Phone (574) 537-3820 • Fax (574) 537-3817 • TDD (574) 534-3185
www.goshenindiana.org

August 7, 2023

To: Board of Public Works and Safety

From: Brandy L. Toms

Subject: Agreement with Community Fiber Network (CFN) for the rebuild and replacement of equipment with the SCADA Network System.

It is recommended that the Board approve and authorize Mayor Leichty to execute the attached agreement with Community Fiber Network (CFN) for the rebuild and replacement of equipment with the SCADA Network System at a cost of \$24, 672.71 to perform all services.

Suggested Motion:

Approve and authorize the Mayor Leichty to execute the attached agreement with Community Fiber Network (CFN) for the rebuild and replacement of equipment with the SCADA Network System at a cost of \$24, 672.71 to perform all services.

**AGREEMENT WITH COMMUNITY FIBER NETWORK (CFN), A DIVISION
OF NEW PARIS TELEPHONE, INC., FOR THE SCADA NETWORK
SYSTEM REBUILD AND EQUIPMENT REPLACEMENT**

THIS AGREEMENT is entered into on _____, 2023, which is the last signature date set forth below, by and between **Community Fiber Network (CFN), A Division of New Paris Telephone, Inc.**, (“Contractor”), whose mailing address is 19066 E. Market Street, New Paris, Indiana 46553, and **City of Goshen, Indiana**, a municipal corporation and political subdivision of the State of Indiana acting through the Goshen Board of Public Works and Safety (“City”).

In consideration of the terms, conditions and mutual covenants contained in this agreement, the parties agree as follows:

Section 1. Contractor Duties

Contractor shall provide City the following services which shall include the provision of all labor, supplies, materials, tools, equipment, supervision, insurance and all other items necessary to rebuild and replace equipment with the SCADA Network System (hereinafter referred to as “Duties”). Contractor’s Duties under this agreement include:

- (A) Contractor will replace City’s Allan Bradley Din Rail Network devices in a one for one fashion. Some of the Adtran Switches will be replaced with Trendnet units to ensure all network equipment regarding the SCADA system is on one vendor’s platform.
- (B) The new equipment does support newer loop technology, ERPS. This would be available to the local ring at the Wastewater location and the larger city-wide SCADA network.
- (C) Contractor will install new fiber leads from each termination point to the City’s cabinet where the network devices described above will be installed. These fibers will eliminate current copper facilities with intent of minimizing failure points within the SCADA network that exist today.
- (D) The labor does include the gathering of the Allan Bradley and Adtran configurations, programing of the new Trendnet units, the replacement of the units by CFN technicians and the running of the fiber drops.

Section 2. Effective Date; Term

- (A) The agreement shall become effective on the day of execution and approval by both parties.
- (B) Contractor acknowledges that time is of the essence and that the timely performance of its Duties is an important element of this agreement. Contractor shall perform all Duties as expeditiously as is consistent with professional skill and care in the orderly progress of the Duties.
- (C) Contractor shall commence the as soon as practical after receiving a notice to proceed from City.

Section 3. Compensation

- (A) City agrees to compensate Contractor as follows for performing all Duties:

Line	Qty	Description/Item	NON-RECURRING	
			Per Item	Subtotal
HARDWARE/INSTALLATION FEES				
1	29	Trendnet TI -G102i	\$ 436.99	\$ 12,672.71
2	3	Trendnet TI-PG1284i	\$ 974.99	\$ 2,924.97
3	7	Trendnet TI-M6024	\$ 59.99	\$ 419.93
4	1	DIN Rail mount for 19in Rack	\$ 85.29	\$ 85.29
5	14	Quikpush Drop fibers	\$ 67.02	\$ 938.28
6	120	Labor per hour	\$ 100.00	\$ 12,000.00
TOTAL				\$ 24,672.71

Section 4. Payment

- (A) City shall pay Contractor for Duties satisfactorily completed under this agreement.
- (B) Payment shall be upon City’s receipt of a detailed invoice from Contractor. The invoice shall be sent to the following address, or at such other address as City may designate in writing.

City of Goshen
c/o Goshen Water-Sewer Department
204 East Jefferson Street, Suite 1
Goshen, IN 46528
- (C) Payment will be made within forty-five (45) days following City’s receipt of the invoice. If any dispute arises, the undisputed amount will be paid. Payment is deemed to be made on the date of mailing the check.
- (D) Contractor is required to have a current W-9 form on file with the Goshen Clerk-Treasurer’s Office before City will issue payment.

Section 5. Ownership of Documents

All documents, records, applications, plans, drawings, specifications, reports, and other materials, regardless of the medium in which they are fixed, (collectively “Documents”) prepared by Contractor or Contractor’s employees, agents or subcontractors under this agreement, shall become and remain the property of and may be used by City. Contractor may retain a copy of the Documents for its records.

Section 6. Licensing/Certification Standards

Contractor certifies that Contractor possesses and agrees to maintain any and all licenses, certifications, or accreditations as required for the services provided by Contractor pursuant to this agreement.

Section 7. Independent Contractor

- (A) Contractor shall operate as a separate entity and independent contractor of the City of Goshen. Any employees, agents or subcontractors of Contractor shall be under the sole and exclusive direction and control of Contractor and shall not be considered employees, agents or subcontractors of City. City shall not be responsible for injury, including death, to any persons or damages to any property arising out of the acts or omissions of Contractor and/or Contractor's employees, agents or subcontractors.
- (B) Contractor understands that City will not carry worker's compensation or any other insurance on Contractor and/or Contractor's employees or subcontractors.
- (C) Contractor is solely responsible for compliance with all federal, state and local laws regarding reporting of compensation earned and payment of taxes. City will not withhold federal, state or local income taxes or any other payroll taxes.

Section 8. Non-Discrimination

Contractor agrees to comply with all federal and Indiana civil rights laws, including, but not limited to Indiana Code 22-9-1-10. Contractor or any subcontractors, or any other person acting on behalf of Contractor or a subcontractor, shall not discriminate against any employee or applicant for employment to be employed in the performance of this agreement, with respect to the employee's hire, tenure, terms, conditions, or privileges of employment or any other matter directly or indirectly related to employment, because of the employee's or applicant's race, religion, color, sex, disability, national origin, or ancestry. Breach of this covenant may be regarded as a material breach of contract.

Section 9. Employment Eligibility Verification

- (A) Contractor shall enroll in and verify the work eligibility status of all Contractor's newly hired employees through the E-Verify program as defined in Indiana Code § 22-5-1.7-3. Contractor is not required to participate in the E-Verify program should the program cease to exist. Contractor is not required to participate in the E-Verify program if Contractor is self-employed and does not employ any employees.
- (B) Contractor shall not knowingly employ or contract with an unauthorized alien, and contractor shall not retain an employee or continue to contract with a person that the Contractor subsequently learns is an unauthorized alien.
- (C) Contractor shall require their subcontractors, who perform work under this contract, to certify to the Contractor that the subcontractor does not knowingly employ or contract with an unauthorized alien and that the subcontractor has enrolled and is participating in the E-Verify program. Contractor agrees to maintain this certification throughout the duration of the term of a contract with a subcontractor.
- (D) City may terminate the contract if Contractor fails to cure a breach of this provision no later than thirty (30) days after being notified by City of a breach.

Section 10. Contracting with Relatives

Pursuant to Indiana Code § 36-1-21, if the Contractor is a relative of a City of Goshen elected official or a business entity that is wholly or partially owned by a relative of a City of Goshen elected official, the

Contractor certifies that Contractor has notified both the City of Goshen elected official and the City of Goshen Legal Department of the relationship prior to entering into this agreement.

Section 11. No Investment Activities in Iran

In accordance with Indiana Code § 5-22-16.5, Contractor certifies that Contractor does not engage in investment activities in Iran as defined by Indiana Code § 5-22-16.5-8.

Section 12. Indemnification

Contractor shall indemnify and hold harmless the City of Goshen and City's agents, officers, and employees from and against any and all liability, obligations, claims, actions, causes of action, judgments, liens, damages, penalties or injuries arising out of any intentional, reckless or negligent act or omission by Contractor or any of Contractor's agents, officers and employees during the performance of services under this agreement. Such indemnity shall include reasonable attorney's fees and all reasonable litigation costs and other expenses incurred by City only if Contractor is determined liable to the City for any intentional, reckless or negligent act or omission in a judicial proceeding, and shall not be limited by the amount of insurance coverage required under this agreement.

Section 13. Insurance

- (A) Prior to commencing work, the Contractor shall furnish City a certificate of insurance in accordance with the following minimum requirements, shall maintain the insurance in full force and effect, and shall keep on deposit at all times during the term of the contract with City the certificates of proof issued by the insurance carrier that such insurance is in full force and effect. Contractor shall specifically include coverage for the City of Goshen as an additional insured for Employer's Liability, General Liability and Automobile Liability.
- (B) Each certificate shall require that written notice be given to the City at least thirty (30) days prior to the cancellation or a material change in the policy.
- (C) Contractor shall at least include the following types of insurance with the following minimum limits of liability:
 - (1) Workers Compensation and Employer's Liability - Statutory Limits
 - (2) General Liability - Combined Bodily Injury and Property Damage, \$1,000,000 each occurrence and aggregate
 - (3) Automobile Liability - Combined Bodily Injury and Property Damage, \$1,000,000 each occurrence and aggregate
 - (4) Professional Liability - Combined Bodily Injury and Property Damage, \$1,000,000 each occurrence and aggregate
 - (5) Excess Umbrella Coverage - \$1,000,000 each occurrence

Section 14. Force Majeure

- (A) Except for payment of sums due, neither party shall be liable to the other or deemed in default under this contract if and to the extent that such party's performance under this contract is prevented by reason of force majeure. The term "force majeure" means an occurrence that is beyond the

control of the party and could not have been avoided by exercising reasonable diligence. Examples of force majeure are natural disasters or decrees of governmental bodies not the fault of the affected party.

- (B) If either party is delayed by force majeure, the party affected shall provide written notice to the other party immediately. The notice shall provide evidence of the force majeure event to the satisfaction of the other party. The party shall do everything possible to resume performance. If the period of non-performance exceeds thirty (30) calendar days, the party whose ability to perform has not been affected may, by giving written notice, terminate the contract and the other party shall have no recourse.

Section 15. Default

- (A) If Contractor fails to perform the services or comply with the provisions of this agreement, then Contractor may be considered in default.
- (B) It shall be mutually agreed that if Contractor fails to perform the services or comply with the provisions of this contract, City may issue a written notice of default and provide a period of time that shall not be less than fifteen (15) days in which Contractor shall have the opportunity to cure. If the default is not cured within the time period allowed, the contract may be terminated by the City. In the event of default and failure to satisfactorily remedy the default after receipt of written notice, the City may otherwise secure similar services in any manner deemed proper by the City, and Contractor shall be liable to the City for any excess costs incurred
- (C) Contractor may also be considered in default by the City if any of the following occur:
 - (1) There is a substantive breach by Contractor of any obligation or duty owed under the provisions of this contract.
 - (2) Contractor is adjudged bankrupt or makes an assignment for the benefit of creditors.
 - (3) Contractor becomes insolvent or in an unsound financial condition so as to endanger performance under the contract.
 - (4) Contractor becomes the subject of any proceeding under law relating to bankruptcy, insolvency or reorganization, or relief from creditors and/or debtors.
 - (5) A receiver, trustee, or similar official is appointed for Contractor or any of Contractor's property.
 - (6) Contractor is determined to be in violation of federal, state, or local laws or regulations and that such determination renders Contractor unable to perform the services described under these Specification Documents.
 - (7) The contract or any right, monies or claims are assigned by Contractor without the consent of the City.

Section 16. Termination

- (A) The agreement may be terminated in whole or in part, at any time, by mutual written consent of both parties. Contractor shall be paid for all services performed and expenses reasonably incurred prior to notice of termination.
- (B) City may terminate this agreement, in whole or in part, in the event of default by Contractor.

- (C) The rights and remedies of the parties under this section shall not be exclusive and are in addition to any other rights and remedies provided by law or under this agreement.

Section 17. Notice

Any notice required or desired to be given under this agreement shall be deemed sufficient if it is made in writing and delivered personally or sent by regular first-class mail to the parties at the following addresses, or at such other place as either party may designate in writing from time to time. Notice will be considered given three (3) days after the notice is deposited in the US mail or when received at the appropriate address.

City:	City of Goshen, Indiana Attention: Goshen Legal Department 204 East Jefferson St., Suite 2 Goshen, IN 46528	Contractor:	Community Fiber Network 19066 E. Market Street New Paris, Indiana 46553
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Section 18. Subcontracting or Assignment

Contractor shall not subcontract or assign any right or interest under the agreement, including the right to payment, without having prior written approval from City. Any attempt by Contractor to subcontract or assign any portion of the agreement shall not be construed to relieve Contractor from any responsibility to fulfill all contractual obligations.

Section 19. Amendments

Any modification or amendment to the terms and conditions of the agreement shall not be binding unless made in writing and signed by both parties. Any verbal representations or modifications concerning the agreement shall be of no force and effect.

Section 20. Waiver of Rights

No right conferred on either party under this agreement shall be deemed waived and no breach of this agreement excused unless such waiver or excuse shall be in writing and signed by the party claimed to have waived such right.

Section 21. Applicable Laws

- (A) Contractor agrees to comply with all applicable federal, state, and local laws, rules, regulations, or ordinances. All contractual provisions legally required to be included are incorporated by reference.
- (B) Contractor agrees to obtain and maintain all required permits, licenses, registrations, and approvals, and shall comply with all health, safety, and environmental rules or regulations in the performance of the services. Failure to do so may be deemed a material breach of agreement.

Section 22. Miscellaneous

- (A) Any provision of this agreement or incorporated documents shall be interpreted in such a way that they are consistent with all provisions required by law to be inserted into the agreement. In the

event of a conflict between these documents and applicable laws, rules, regulations or ordinances, the most stringent or legally binding requirement shall govern.

- (B) This agreement shall be construed in accordance with and governed by the laws of the State of Indiana and any suit must be brought in a court of competent jurisdiction in Elkhart County, Indiana.
- (C) In the event legal action is brought to enforce or interpret the terms and conditions of this agreement, the prevailing party of such action shall be entitled to recover all costs of that action, including reasonable attorneys' fees.

Section 23. Severability

In the event that any provision of the agreement is found to be invalid or unenforceable, then such provision shall be reformed in accordance with applicable law. The invalidity or unenforceability of any provision of the agreement shall not affect the validity or enforceability of any other provision of the agreement.

Section 24. Binding Effect

All provisions, covenants, terms and conditions of this agreement apply to and bind the parties and their legal heirs, representatives, successors and assigns.

Section 25. Entire Agreement

This agreement constitutes the entire agreement between the parties and supersedes all other agreements or understandings between City and Contractor.

Section 26. Authority to Execute

The undersigned affirm that all steps have been taken to authorize execution of this agreement, and upon the undersigned's execution, bind their respective organizations to the terms of the agreement.

IN WITNESS WHEREOF, the parties have executed this agreement on the dates as set forth below.

City of Goshen, Indiana
Goshen Board of Public Works and Safety

Community Fiber Network

Gina Leichty, Mayor

Printed: _____

Title: _____

Date Signed: _____

Date Signed: _____



A DIVISION OF NEW PARIS TELEPHONE, INC.

NETWORK EQUIPMENT PROPOSALS

FOR

City of Goshen – SCADA Network

PROPOSAL:	23-116-CoGSC
PREPARED BY:	Josh Culp
DATE:	May 2, 2023

This quote is good for **20 business days** starting **May 2, 2023**

Proposal No: 23-116-CoGSC

OPTION 1 – DESCRIPTION BELOW

Line	Qty	Description/Item	NON-RECURRING		MONTHLY RECURRING	
			Per Item	Subtotal	Per Item	Subtotal
HARDWARE/INSTALLATION FEES						
1	25	Trendnet TI -G102i	\$ 434.99	\$ 10,874.75		
2	40	Labor per hour	\$ 100.00	\$ 4,000.00		
		TOTAL		\$ 14,874.75		\$ -

OPTION 2 – DESCRIPTION BELOW

Line	Qty	Description/Item	NON-RECURRING		MONTHLY RECURRING	
			Per Item	Subtotal	Per Item	Subtotal
HARDWARE/INSTALLATION FEES						
1	33	Trendnet TI -G102i	\$ 434.99	\$ 14,354.67		
2	9	Trendnet TI-M6024	\$ 59.99	\$ 539.91		
3	1	DIN Rail mount for 19in Rack	\$ 85.29	\$ 85.29		
4	50	Labor per hour	\$ 100.00	\$ 5,000.00		
		TOTAL		\$ 19,354.67		\$ -

OPTION 3 – DESCRIPTION BELOW

Line	Qty	Description/Item	NON-RECURRING		MONTHLY RECURRING	
			Per Item	Subtotal	Per Item	Subtotal
HARDWARE/INSTALLATION FEES						
1	29	Trendnet TI -G102i	\$ 436.99	\$ 12,672.71		
2	3	Trendnet TI-PG1284i	\$ 974.99	\$ 2,924.97		
3	7	Trendnet TI-M6024	\$ 59.99	\$ 419.93		
4	1	DIN Rail mount for 19in Rack	\$ 85.29	\$ 85.29		
5	14	Quikpush Drop fibers	\$ 67.02	\$ 938.28		
6	120	Labor per hour	\$ 100.00	\$ 12,000.00		
		TOTAL		\$ 24,672.71		\$ -

This quote is good for **20 business days** starting **May 2, 2023**

Proposal No: 23-116-CoGSC

T E R M S O F A G R E E M E N T

Option 1 Description

- Community Fiber Network (CFN) will replace the City of Goshen’s Allan Bradley Din Rail Network devices in a one for one fashion.
- The new equipment does support newer loop technology, ERPS. This would be available to only the local ring at the Wastewater location.
- The labor does include the gathering of the Allan Bradley configurations, programing of the new Trendnet units, and the replacement of the units by CFN technicians.

Option 2 Description

- Community Fiber Network (CFN) will replace the City of Goshen’s Allan Bradley Din Rail Network and Adtran network devices in a one for one fashion. The idea behind this option is to have all network equipment regarding the SCADA system on one vendor’s platform. This would allow for a more uniform system.
- The new equipment does support newer loop technology, ERPS. This would be available to the local ring at the Wastewater location and the larger city-wide SCADA network.
- The labor does include the gathering of the Allan Bradley and Adtran configurations, programing of the new Trendnet units, and the replacement of the units by CFN technicians.

Option 3 Description

- Community Fiber Network (CFN) will replace the City of Goshen’s Allan Bradley Din Rail Network devices in a one for one fashion. Some of the Adtran Switches will be replaced with Trendnet units. The idea behind this option is to have all network equipment regarding the SCADA system on one vendor’s platform.
- The new equipment does support newer loop technology, ERPS. This would be available to the local ring at the Wastewater location and the larger city-wide SCADA network
- CFN will install new fiber leads from each termination point to the City’s cabinet where the network devices described above will be installed. These fibers will eliminate current copper facilities with intent of minimizing failure points within the SCADA network that exist today.
- This would allow for a more uniform system. The labor does include the gathering of the Allan Bradley and Adtran configurations, programing of the new Trendnet units, the replacement of the units by CFN technicians and the running of the fiber drops.

Proposal No. 23-116-CoGSC

I have read and understand the terms and conditions of this proposal, and hereby authorize this work:

OPTION 1.) – REPLACEMENT OF ALLAN BRADLEY UNITS ONLY

OPTION 2.) – REPLACEMENT OF ALLAN BRADLY AND ADTRAN UNITS

OPTION 3.) – NETWORK REBUILD AND EQUIPMENT REPLACEMENT

Accepted By: _____

Print Name: _____ Date: _____



**Engineering Department
CITY OF GOSHEN**

204 East Jefferson Street, Suite 1 • Goshen, IN 46528-3405

Phone (574) 534-2201 • Fax (574) 533-8626 • TDD (574) 534-3185
engineering@goshencity.com • www.goshenindiana.org

MEMORANDUM

TO: Goshen Board of Public Works & Safety

FROM: Goshen Engineering

RE: **CLOSURE FOR ELKHART CO. TO PERFORM BRIDGE DECK SEALING**

DATE: August 7, 2023

Elkhart County is requesting the closure of the Lincoln Avenue bridge to perform deck sealing.

Bridge #408 – Lincoln Avenue by Roger’s Park – Saturday, August 12

If it would rain on Saturday, August 12, they would perform the work on Saturday, August 19.

Requested Motion: Approve the closure of the Lincoln Avenue bridge on August 12 or August 19 for Elkhart County to perform bridge maintenance.

**APPROVED:
BOARD OF PUBLIC WORKS & SAFETY
CITY OF GOSHEN, INDIANA**

Gina Leichty, Mayor

Barb Swartley, Member

Mary Nichols, Member

Michael Landis, Member



**Engineering Department
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engineering@goshencity.com • www.goshenindiana.org

MEMORANDUM

TO: Board of Public Works and Safety
FROM: Goshen Engineering Department
RE: COLLEGE AVENUE ROAD CLOSURE (JN: 2018-0022)
DATE: August 7, 2023

Niblock Excavating has requested permission to close College Avenue on either side of Horn Ditch bridge (Bridge No. 410). The road will be closed from Monday, August 14 until Monday, October 16.

Niblock Excavating is requesting this closure to finish planned utility relocations in preparation for the Elkhart County replacement of Bridge No. 410. The traffic control plan is attached. All appropriate traffic control devices will be utilized.

Requested motion: Move to approve the closure of College Avenue near Horn Ditch Bridge, from August 14 until October 16, 2023.

APPROVED:

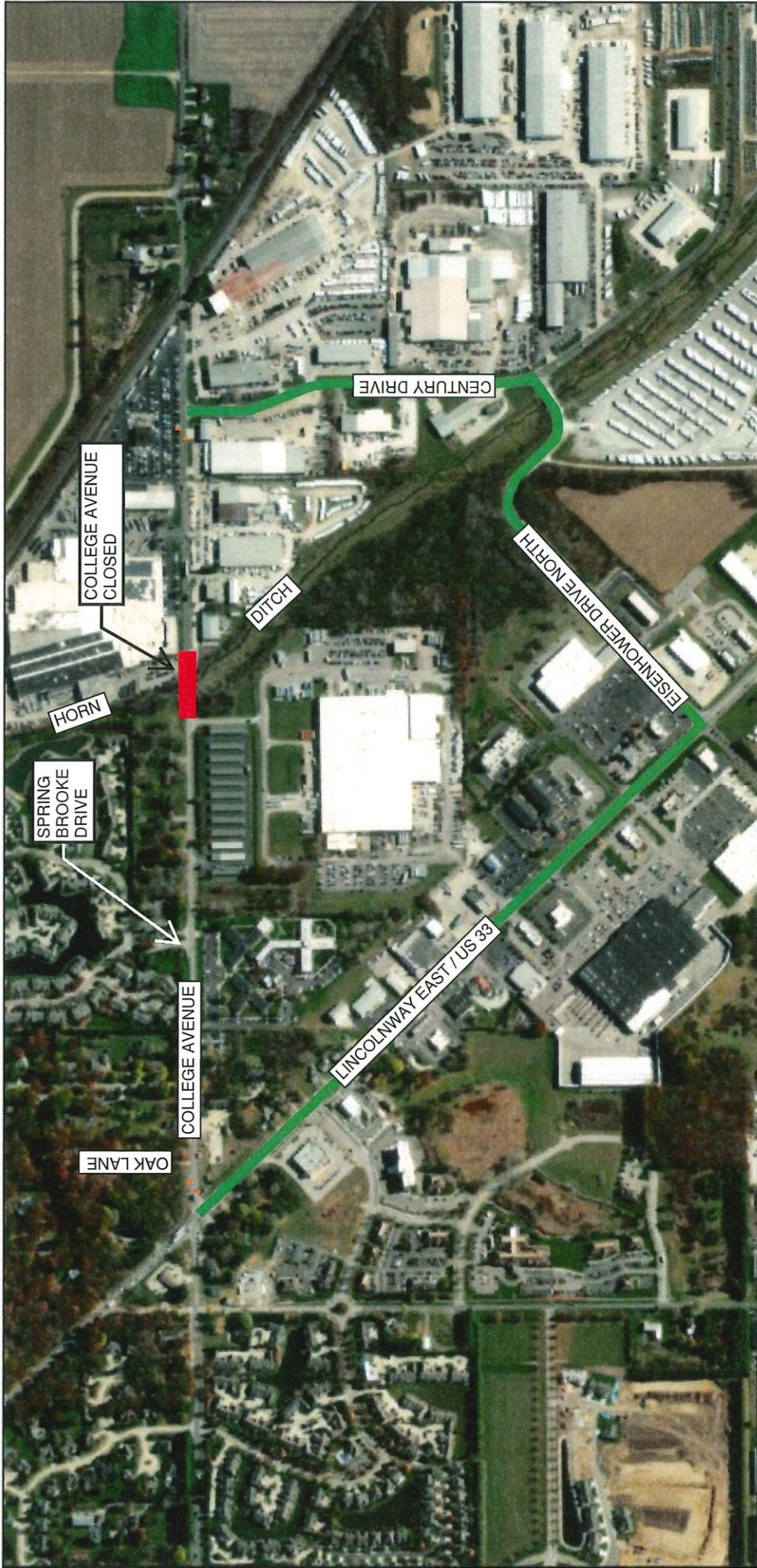
City of Goshen
Board of Public Works & Safety

Gina Leichty, Mayor

Michael Landis, Board Member

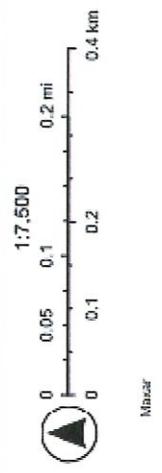
Mary Nichols, Board Member

Barb Swartley, Board Member



COLLEGE AVENUE CLOSED AT HORN DITCH BRIDGE
MONDAY, AUGUST 14TH - MONDAY, OCTOBER 16TH
ACCESS TO BUSINESSES AND HOMES WILL BE MAINTAINED

DETOUR ROUTE





**Engineering Department
CITY OF GOSHEN**

204 East Jefferson Street, Suite 1 • Goshen, IN 46528-3405

Phone (574) 534-2201 • Fax (574) 533-8626 • TDD (574) 534-3185
engineering@goshencity.com • www.goshenindiana.org

MEMORANDUM

TO: Board of Works and Safety and Stormwater Board

FROM: Dustin Sailor, P.E., Director of Public Works

RE: **PROFESSIONAL SERVICE AGREEMENT FOR ENVIRONMENTAL SERVICES TO
ABANDON WASTEWATER LAGOON – PART 1
(JN: 2019-0025A)**

DATE: August 4, 2023

Goshen Wastewater would like to engage Roberts Environmental (Roberts) to work through the closure requirements necessary to fill-in the wastewater treatment plant's former bio-solids handling lagoon. Phase 1 of Roberts' services will entail survey work, review of existing documents, and outreach to the Indiana Department of Environmental Management (IDEM).

Additional work phases are anticipated with Robert Environmental once the scope of work is confirmed with IDEM, and agreement amendments will be brought back before the board.

Requested Motion: Move to authorize Mayor Leichty to sign an agreement with Roberts Environmental for a time and material fee not to exceed \$4,000.00 to evaluate the lagoon's current condition and begin communication with IDEM.

AGREEMENT

WITH ROBERTS ENVIRONMENTAL SERVICES, LLC FOR GENERAL CONSULTING SERVICES FOR THE FORMER WASTEWATER LAGOON WWTP 1000 WEST EILDEN AVENUE, GOSHEN, INDIANA

THIS AGREEMENT is entered into on _____, 2023, which is the last signature date set forth below, by and between **Roberts Environmental Services, LLC** (“Consultant”), whose mailing address is 2112 Carmen Court Goshen IN 46526 and **City of Goshen, Indiana**, a municipal corporation and political subdivision of the State of Indiana acting through the Goshen Board of Public Works & Safety (“City”).

In consideration of the terms, conditions and mutual covenants contained in this agreement, the parties agree as follows:

Section 1. Consultant Duties

Roberts Environmental Services, LLC shall provide City general consulting services reviewing initial documents from the previous lagoon closure activities and respond to Indiana Department of Environmental Management’s (IDEM) comments regarding lagoon closure activities completed to date at the former wastewater lagoon located at 1000 West Wilden Avenue, Goshen, Indiana which services are more particularly described in Consultant’s July 31, 2023 proposal attached as Exhibit A (hereinafter referred to as “Duties”).

In the event of any conflict between the terms of this agreement and the terms contained in the proposal attached as Exhibit A, the terms set forth in this agreement shall prevail.

Consultant Duties under this agreement include:

- A. Initial Site meeting;
- B. Review previous documents pertaining to past closure activities found online in IDEM’s Virtual File Cabinet (VFC) and documents provided by City and/or their contractor(s)’
- C. Obtain general elevations of lagoon bottom and surrounding grade;
- D. Prepare an email response to IDEM of proposed additional sampling activities for their approval/comment; and

Section 2. Effective Date; Term

The agreement shall become effective on the day of execution and approval by both parties.

Section 3. Compensation

City agrees to compensate Roberts Environmental Services, LLC the lump sum of Four Thousand Dollars (\$4,000) for performing all Duties.

Section 4. Payment

Payment shall be upon City's receipt of a detailed invoice from Consultant. The invoice shall be sent to the following address, or at such other address as City may designate in writing.

City of Goshen
c/o City of Goshen Redevelopment
204 East Jefferson Street, Suite 6
Goshen, IN 46528

Payment will be made within forty-five (45) days following City's receipt of the invoice. If any dispute arises, the undisputed amount will be paid. Payment is deemed to be made on the date of mailing the check.

Consultant is required to have a current W-9 form on file with the Goshen Clerk-Treasurer's Office before City will issue payment.

Section 5. Ownership of Documents

All documents, records, applications, plans, drawings, specifications, reports, and other materials, regardless of the medium in which they are fixed, (collectively "Documents") prepared by Consultant or Consultant's employees, agents or subconsultants under this agreement, shall become and remain the property of and may be used by City. Consultant may retain a copy of the Documents for its records, including electronic files, as instruments of professional service. The final documents prepared under this agreement shall become the property of City upon completion of the services and payment in full of all monies due to Consultant.

Section 6. Licensing/Certification Standards

Consultant certifies that Consultant possesses and agrees to maintain any and all licenses, certifications, or accreditations as required for the services provided by Consultant pursuant to this agreement.

Section 7. Independent Consultant

Consultant shall operate as a separate entity and independent Consultant of the City of Goshen. Any employees, agents or subconsultants of Consultant shall be under the sole and exclusive direction and control of Consultant and shall not be considered employees, agents or subconsultants of City. City shall not be responsible for injury, including death, to any persons or damages to any property arising out of the acts or omissions of Consultant and/or Consultant's employees, agents or subconsultants.

Consultant understands that City will not carry worker's compensation or any other insurance on Consultant and/or Consultant's employees or subconsultants. Prior to commencing work under this agreement, and if Consultant utilizes employees or subconsultants to perform work under this agreement, Consultant agrees to provide City a certificate(s) of insurance showing Consultant's and any subconsultant's compliance with workers' compensation statutory requirements.

Consultant is solely responsible for compliance with all federal, state and local laws regarding reporting of compensation earned and payment of taxes. City will not withhold federal, state or local income taxes or any other payroll taxes.

Section 8. Non-Discrimination

Consultant agrees to comply with all federal and Indiana civil rights laws, including, but not limited to Indiana Code 22-9-1-10. Consultant or any subconsultants, or any other person acting on behalf of Consultant or a subconsultant, shall not discriminate against any employee or applicant for employment to be employed in the performance of this agreement, with respect to the employee's hire, tenure, terms, conditions, or privileges of employment or any other matter directly or indirectly related to employment, because of the employee's or applicant's race, religion, color, sex, disability, national origin, or ancestry. Breach of this covenant may be regarded as a material breach of contract.

Section 9. Employment Eligibility Verification

Consultant shall enroll in and verify the work eligibility status of all Consultant's newly hired employees through the E-Verify program as defined in Indiana Code § 22-5-1.7-3. Consultant is not required to participate in the E-Verify program should the program cease to exist. Consultant is not required to participate in the E-Verify program if Consultant is self-employed and does not employ any employees.

Consultant shall not knowingly employ or contract with an unauthorized alien, and Consultant shall not retain an employee or continue to contract with a person that the Consultant subsequently learns is an unauthorized alien.

Consultant shall require their subconsultants, who perform work under this contract, to certify to the Consultant that the subconsultant does not knowingly employ or contract with an unauthorized alien and that the subconsultant has enrolled and is participating in the E-Verify program. Consultant agrees to maintain this certification throughout the duration of the term of a contract with a subconsultant.

City may terminate the contract if Consultant fails to cure a breach of this provision no later than thirty (30) days after being notified by City of a breach.

Section 10. Contracting with Relatives

Pursuant to Indiana Code § 36-1-21, if the Consultant is a relative of a City of Goshen elected official or a business entity that is wholly or partially owned by a relative of a City of Goshen elected official, the Consultant certifies that Consultant has notified both the City of Goshen elected official and the City of Goshen Legal Department of the relationship prior to entering into this agreement.

Section 11. No Investment Activities in Iran

In accordance with Indiana Code § 5-22-16.5, Consultant certifies that Consultant does not engage in investment activities in Iran as defined by Indiana Code § 5-22-16.5-8.

Section 12. Indemnification

Consultant shall indemnify and hold harmless the City of Goshen and City's agents, officers, and employees from and against any and all liability, obligations, claims, actions, causes of action, judgments, liens, damages, penalties or injuries arising out of any intentional, reckless or negligent act or omission by Consultant or any of Consultant's agents, officers and employees during the performance of services under this agreement. Such indemnity shall include reasonable attorney's fees and all reasonable litigation costs and other expenses incurred by City only if Consultant is determined liable to the City for any intentional,

reckless or negligent act or omission in a judicial proceeding, and shall not be limited by the amount of insurance coverage required under this agreement.

Section 13. Insurance

Prior to commencing work, the Consultant shall furnish City a certificate of insurance in accordance with the following minimum requirements, shall maintain the insurance in full force and effect, and shall keep on deposit at all times during the term of the contract with City the certificates of proof issued by the insurance carrier that such insurance is in full force and effect. Consultant shall specifically include coverage for the City of Goshen as an additional insured for Employer's Liability, General Liability and Automobile Liability.

Each certificate shall require that written notice be given to the City at least thirty (30) days prior to the cancellation or a material change in the policy.

Consultant shall at least include the following types of insurance with the following minimum limits of liability:

- (1) Workers Compensation and Employer's Liability - Statutory Limits
- (2) General Liability - Combined Bodily Injury and Property Damage, \$1,000,000 each occurrence and aggregate
- (3) Automobile Liability - Combined Bodily Injury and Property Damage, \$1,000,000 each occurrence and aggregate
- (4) Professional Liability - Combined Bodily Injury and Property Damage, \$1,000,000 each occurrence and aggregate
- (5) Excess Umbrella Coverage - \$1,000,000 each occurrence

Section 14. Force Majeure

Except for payment of sums due, neither party shall be liable to the other or deemed in default under this contract if and to the extent that such party's performance under this contract is prevented by reason of force majeure. The term "force majeure" means an occurrence that is beyond the control of the party and could not have been avoided by exercising reasonable diligence. Examples of force majeure are natural disasters or decrees of governmental bodies not the fault of the affected party.

If either party is delayed by force majeure, the party affected shall provide written notice to the other party immediately. The notice shall provide evidence of the force majeure event to the satisfaction of the other party. The party shall do everything possible to resume performance. If the period of non-performance exceeds thirty (30) calendar days, the party whose ability to perform has not been affected may, by giving written notice, terminate the contract and the other party shall have no recourse.

Section 15. Default

If Consultant fails to perform the services or comply with the provisions of this agreement, then Consultant may be considered in default.

It shall be mutually agreed that if Consultant fails to perform the services or comply with the provisions of this contract, City may issue a written notice of default and provide a period of time that shall not be less

than fifteen (15) days in which Consultant shall have the opportunity to cure. If the default is not cured within the time period allowed, the contract may be terminated by the City. In the event of default and failure to satisfactorily remedy the default after receipt of written notice, the City may otherwise secure similar services in any manner deemed proper by the City, and Consultant shall be liable to the City for any excess costs incurred.

Consultant may also be considered in default by the City if any of the following occur:

- (1) There is a substantive breach by Consultant of any obligation or duty owed under the provisions of this contract.
- (2) Consultant is adjudged bankrupt or makes an assignment for the benefit of creditors.
- (3) Consultant becomes insolvent or in an unsound financial condition so as to endanger performance under the contract.
- (4) Consultant becomes the subject of any proceeding under law relating to bankruptcy, insolvency or reorganization, or relief from creditors and/or debtors.
- (5) A receiver, trustee, or similar official is appointed for Consultant or any of Consultant's property.
- (6) Consultant is determined to be in violation of federal, state, or local laws or regulations and that such determination renders Consultant unable to perform the services described under these Specification Documents.
- (7) The contract or any right, monies or claims are assigned by Consultant without the consent of the City.

Section 16. Termination

The agreement may be terminated in whole or in part, at any time, by mutual written consent of both parties. Consultant shall be paid for all services performed and expenses reasonably incurred prior to notice of termination.

City may terminate this agreement, in whole or in part, in the event of default by Consultant.

The rights and remedies of the parties under this section shall not be exclusive and are in addition to any other rights and remedies provided by law or under this agreement.

Section 17. Notice

Any notice required or desired to be given under this agreement shall be deemed sufficient if it is made in writing and delivered personally or sent by regular first-class mail to the parties at the following addresses, or at such other place as either party may designate in writing from time to time. Notice will be considered given three (3) days after the notice is deposited in the US mail or when received at the appropriate address.

City:	City of Goshen, Indiana Attention: Goshen Legal Department 204 East Jefferson St., Suite 2 Goshen, IN 46528	Consultant:	Roberts Environmental Services, LLC Jeffery C. Roberts, President 2112 Carmen Court Goshen IN 46526
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Section 18. Subcontracting or Assignment

Consultant shall not subcontract or assign any right or interest under the agreement, including the right to payment, without having prior written approval from City. Any attempt by Consultant to subcontract or assign any portion of the agreement shall not be construed to relieve Consultant from any responsibility to fulfill all contractual obligations.

Section 19. Amendments

Any modification or amendment to the terms and conditions of the agreement shall not be binding unless made in writing and signed by both parties. Any verbal representations or modifications concerning the agreement shall be of no force and effect.

Section 20. Waiver of Rights

No right conferred on either party under this agreement shall be deemed waived and no breach of this agreement excused unless such waiver or excuse shall be in writing and signed by the party claimed to have waived such right.

Section 21. Applicable Laws

Consultant agrees to comply with all applicable federal, state, and local laws, rules, regulations, or ordinances. All contractual provisions legally required to be included are incorporated by reference.

Consultant agrees to obtain and maintain all required permits, licenses, registrations, and approvals, and shall comply with all health, safety, and environmental rules or regulations in the performance of the services. Failure to do so may be deemed a material breach of agreement.

Section 22. Miscellaneous

Any provision of this agreement or incorporated documents shall be interpreted in such a way that they are consistent with all provisions required by law to be inserted into the agreement. In the event of a conflict between these documents and applicable laws, rules, regulations or ordinances, the most stringent or legally binding requirement shall govern.

This agreement shall be construed in accordance with and governed by the laws of the State of Indiana and any suit must be brought in a court of competent jurisdiction in Elkhart County, Indiana.

In the event legal action is brought to enforce or interpret the terms and conditions of this agreement, the prevailing party of such action shall be entitled to recover all costs of that action, including reasonable attorneys' fees.

Section 23. Severability

In the event that any provision of the agreement is found to be invalid or unenforceable, then such provision shall be reformed in accordance with applicable law. The invalidity or unenforceability of any provision of the agreement shall not affect the validity or enforceability of any other provision of the agreement.

Section 24. Binding Effect

All provisions, covenants, terms and conditions of this agreement apply to and bind the parties and their legal heirs, representatives, successors and assigns.

Section 25. Entire Agreement

This agreement constitutes the entire agreement between the parties and supersedes all other agreements or understandings between City and Roberts Environmental Services, LLC.

Section 26. Authority to Bind Consultant

The undersigned affirm that all steps have been taken to authorize execution of this agreement, and upon the undersigned's execution, bind their respective organizations to the terms of the agreement.

N WITNESS WHEREOF, the parties have executed this agreement on the dates as set forth below.

City of Goshen, Indiana
Board of Public Works & Safety

Roberts Environmental Services, LLC

Gina Leichty, Mayor

Date Signed: _____

Printed: _____

Title: _____

Date Signed: _____

July 31, 2023

ROBERTS Project No.: 23-10922-10

Dustin Sailor, P.E., Director of Public Works
City of Goshen
Public Works
204 E. Jefferson Street
Goshen, IN 46528

**General Consulting Services Agreement
Initial Document Review & IDEM Communications
Former Wastewater Lagoon - City of Goshen WWTP
1000 West Wilden Avenue
Goshen, Indiana**

Mr. Sailor:

Roberts Environmental Services, LLC (“ROBERTS”) is pleased to submit the following proposal to provide general consulting services relative to the former wastewater storage lagoon located at the above-referenced property in Goshen, Indiana (hereinafter referred to as the “Site”). ROBERTS understands that the City of Goshen, Indiana (“City”) would initially like our assistance in reviewing previous lagoon closure activities and responding to Indiana Department of Environmental Management’s (IDEM’s) comments regarding the lagoon closure activities completed to date. ROBERTS will provide additional professional services to the City to close out the former lagoon, which will require additional soil sampling for the lagoon closure and backfilling. However, these additional services are not included in the proposed cost herein but will be provided in an addendum once IDEM approves the final lagoon closure sampling activities proposed by the City.

SCOPE OF WORK

The initial project activities related to this General Consulting Services agreement include:

- 1) Initial Site meeting;
- 2) Review previous documents pertaining to past closure activities found online in IDEM’s Virtual File Cabinet (VFC) and documents provided by the City and/or their contractor(s);
- 3) Obtain general elevations of lagoon bottom and surrounding grade;
- 4) Prepare an email response to IDEM of proposed additional sampling activities for their approval/comment; and
- 5) Preparation of a Sampling & Analysis Plan (SAP) that will include the final IDEM-approved sampling activities relative to the lagoon closure (the addendum to this agreement that will include costs required to complete the SAP).

COST ESTIMATE

ROBERTS proposes to conduct the services proposed herein on a time and expense not-to-exceed basis. ROBERTS will complete the above activities for an estimated cost of **\$4,000**. Based on Roberts current rates and fee schedules (attached). ROBERTS does not foresee an exceedance of this estimate for the scope of work described in the preceding text. However, we will keep you apprised of the project status and budget. This estimate does not include field contingencies, but reflects costs believed to be representative for completing the work described. Any modifications to the scope of services necessary to complete the proposed activities that increase the estimated costs will be discussed prior to providing supplemental services.

TERMS AND CONDITIONS

This proposal, including the cost contained herein, is applicable for 15 calendar days; however, it may be necessary to alter the proposed project schedule if the proposal is not accepted within ten (10) business days. If our proposal is acceptable, it is anticipated that the City will prepare an Agreement for professional services and submit the Agreement to ROBERTS for review and signature.

SCHEDULE

Upon receipt of authorization to proceed, ROBERTS will schedule the project activities to be completed as soon as reasonably feasible. ROBERTS would anticipate submitting a draft email response to IDEM to the City on or before the week of August 14, 2023, provided that ROBERTS is authorized to proceed promptly and receives pertinent documents relating to the former lagoon closure from the City (or their Contractors) at least ten (10) days prior to this date. The work scope proposed by ROBERTS assumes that only limited stakeholder communication will be required as part of this task (i.e., initial on-Site meeting, telephone calls, e-mails, etc.).

We appreciate this opportunity to offer our services to you. If you have any questions regarding the scope of work or cost estimate, please feel free to call us at your earliest convenience.

Sincerely,

Roberts Environmental Services, LLC



David D. Jeffers, LPG
Senior Hydrogeologist

Roberts Environmental Services, LLC



Jeffrey C. Roberts
President

Attachments: "Authorization to Proceed" Form
ROBERTS current rates and fee schedules

**AUTHORIZATION FOR ROBERTS ENVIRONMENTAL SERVICES, LLC, TO
PROCEED WITH PROJECT DESCRIBED IN PRECEDING PROPOSAL**

Proposal/Project Number: 23-10922-10
Proposal Date: July 31, 2023
Payment By: City of Goshen

Proposal Title: General Consulting Services Agreement
Initial Document Review & IDEM Communications
Former Wastewater Lagoon - City of Goshen WWTP
1000 West Wilden Avenue
Goshen, Indiana

The undersigned hereby authorizes Roberts Environmental Services, LLC (“ROBERTS”) to proceed on the above-referenced project in accordance with the referenced proposal and its associated work scope, terms, and conditions. By authorizing the work, the undersigned acknowledges that ROBERTS’ proposed work scope is adequate for the undersigned’s purposes. The undersign further acknowledges that they read, understand, and agree to the terms and conditions governing the project, including, but not limited to, the Standard Terms and Conditions for this project, which are incorporated herein, and are authorized to contractually bind the above-named Client in executing this authorization. In no event shall any subsequent work order or similar document vary the terms and conditions of this authorization, including all terms and conditions incorporated by reference, without the express written agreement of ROBERTS.

Signature

Typed or Printed Name

Company/Affiliation

Title

Date

ROBERTS will proceed with the work upon receipt of a signed Authorization to Proceed.
PLEASE RETURN THIS PAGE TO ROBERTS UPON COMPLETION

ROBERTS ENVIRONMENTAL SERVICES, LLC
2023 LABOR FEE SCHEDULE

Principal	\$190.00/hour
Sr. Project Manager/Geologist/Hydrogeologist/Scientist/Engineer	\$136 - \$150/hour
Project Geologist/Scientist/Engineer	\$97 - \$135/hour
Geologist/Environmental Scientist II	\$90 - \$96/hour
Geologist/Environmental Scientist I	\$81 - \$89/hour
Sr. Environmental Geologist/Scientist/Technician	\$76 - \$80/hour
Staff Environmental Geologist/Scientist/Technician	\$68 - \$75/hour
Project Administrator/Specialist	\$62 - \$67/hour

ROBERTS ENVIRONMENTAL SERVICES, LLC
2023 GENERAL EQUIPMENT, SUPPLIES, AND EXTERNAL EXPENSES FEE
SCHEDULE¹

COMMON EQUIPMENT:

<u>Item</u>	<u>Rate</u>	<u>Unit</u>
Company Vehicle (<100 miles)	\$85.00	Trip
Company Vehicle (>100/<200 miles)	\$120.00	Trip
Photo Ionization Detector (PID)	\$95.00	Day
Dual Phase Interface Probe	\$60.00	Day
Water Level Indicator	\$30.00	Day
Masterflex Peristaltic Pump (MBP)	\$90.00	Day
Mechanical Bladder Pump	\$90.00	Day
Low Flow Submersible Pump	\$90.00	Day
Air Bladder Pump/Controller	\$220.00	Day
Pressure Washer	\$75.00	Day
Surveying Equipment	\$35.00	Day
Pneumatic Drum Vacuum	\$150.00	Day
Temperature/Conductivity Meter	\$15.00	Day
Optical Dissolved Oxygen Meter	\$50.00	Day
Aqua Troll 600 Multi-Parameter/Low Flow cell	\$160.00	Day
Hand-Auger (Various Sizes)	\$25.00	Day

COMMON SUPPLIES:

<u>Item</u>	<u>Rate</u>	<u>Unit</u>
Bailers, 0.07 to 1.5-inch O.D. Polyethylene	\$10.00	Each
Rigid Polyethylene Tubing	\$0.40	Foot
Decontamination Supplies	\$20.00	Day
Reconditioned 55-Gallon Drum	\$80.00	Each
0.5 Micron In-Line Filter	\$25.00	Each
Nitrile Disposable Gloves	\$0.60	Pair

[Other supplies necessary to complete a specific project will be dependent on nature of work being performed. These supplies will be billed in accordance with specific internal fee schedules or as an external expense, which is simply cost +10%]

EXTERNAL EXPENSES:

<u>Item</u>	<u>Rate</u>	<u>Unit</u>
<u>External Expenses</u> (such as, travel, lodging, subcontracted services, equipment rental, expendable materials purchased for project, etc.):	Cost+10%	----
<u>Per Diem</u> (includes food allowance plus nominal personal expenses):	\$55.00	Day
<u>Mileage</u> (company-owned or personal vehicle):	\$0.65	Mile

¹ Due to supply chain issues beyond the control of ROBERTS, all rates are subject to change throughout the year without notice. Rates provided should be considered estimates.



STORMWATER DEPARTMENT
CITY OF GOSHEN
204 East Jefferson Street, Suite 1 • Goshen, IN 46528-3405
Phone (574) 534-2201 • Fax (574) 533-8626
stormwater@goshencity.com • www.goshenindiana.org

MEMORANDUM

TO: City of Goshen Stormwater Board

FROM: Stormwater Department

**RE: POST-CONSTRUCTION PLAN APPROVAL
NORTH MEADOW THIRD APARTMENTS (DELGADO APARTMENTS)
(JN: 2023-2020)**

DATE: August 7, 2023

The developer of the North Meadow Third Apartments (aka Delgado Apartments), affecting one (1) or more acres of land as part of a larger common plan of development and located at 420 Johnston Street, has submitted a sufficient post-construction plan that is compliant with Ordinance 4329, "Uniform Requirements for Post-Construction Stormwater Management."

The Stormwater Department requests the Stormwater Board's acceptance of the plan.

Full document available upon request.

Requested Motion: Accept the post-construction stormwater management plan for North Meadow Third Apartments as it has been found to meet the requirements of City Ordinance 4329.
